

BRIGHTON & HOVE CITY COUNCIL

GOVERNANCE COMMITTEE

4.00pm 20 MARCH 2012

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Littman (Chair), A Norman (Deputy Chair), Cox, Mitchell, Morgan, Powell, Randall, G Theobald, MacCafferty and Shanks

Also in attendance:

PART ONE

62. PROCEDURAL BUSINESS

62a Declaration of Substitutes

62a.1 Councillor MacCafferty attended as a substitute for Councillor Kennedy
Councillor Shanks attended as a substitute for Councillor J Kitcat

62b Declarations of Interest

62b.1 All councillors declared a personal but non-prejudicial interest in Item 74, Review of Members Allowances

62c Exclusion of Press and Public

62c.1 In accordance with Section 100A of the Local Government Act 1972 ('the Act'), the Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of business to be transacted or the nature of the proceedings, that if members of the press and public were present during that item, there would be disclosure to them of confidential or exempt information (as detailed in Section 100A(3) of the Act).

62c.2 **RESOLVED** – That the press and public not be excluded from the meeting.

63. MINUTES OF THE PREVIOUS MEETING

63.1 **RESOLVED** - That the minutes of the meeting held on 10 January 2012 be approved as a correct record.

64. CHAIR'S COMMUNICATIONS

64.1 The Chair noted that this would be the last meeting of the Governance Committee, and thanked everyone who had been involved.

65. CALLOVER

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

66. PETITIONS

66.1 There were none.

67. PUBLIC QUESTIONS

67.1 There were none.

68. DEPUTATIONS

68.1 There were none.

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

69.1 There were none.

70. POLLING PLACE REVIEW

70.1 The Committee considered the report of the Strategic Director, Resources on Polling Place Review. Following the City Council elections in May 2011 a number of issues had arisen about six of the designated polling stations. The report set out suggestions for possible alternative locations and set out the consultation which would be undertaken to review those locations.

70.2 Councillor Cox noted that the Pavilion in Saxon Road was no longer available as it had been leased to a private playgroup, and asked why the use of a polling station was not covered in the lease. Councillor Cox was told that further information would be obtained and provided to the committee members.

70.3 Councillor Norman said that Councillor Peltzer Dunn had had similar concerns about the polling station in Saxon Road, and suggested that a portacabin be used and asked what the costs implications would be. Councillor Norman was pleased that Dorothy Stringer School was able to accommodate the polling station, but had some concerns that the Loder Road may be too long and steep for some people. It was confirmed that the committee would be advised on the cost of using a portacabin.

70.4 Councillor Morgan had some concerns that Manor Gym be used as the road outside was susceptible to flooding.

70.5 Councillor Theobald was concerned that Goldsmid Ward would have to travel out of the ward to vote, but accepted that as it was mainly a residential area that there was nowhere for a polling station.

70.5 RESOLVED

- (1) That the Governance Committee approved the consultation document and consultation process as outlined in the report.
- (2) That on completion of the consultation exercise officers would bring a report to the relevant council committee for the approval of recommendations for alternative polling places in the affected wards.

71. ATTENDANCE MANAGEMENT PROCEDURE

- 71.1 The committee considered a report of the Strategic Director Resources on the Attendance Management Procedure. The Head of Human Resources and Organisational Development introduced the report. The Attendance Management Procedure had been introduced in April 2011, with a commitment that the procedure would be reviewed six months later. When the matter was reviewed there had been concerns over the mandatory nature of the formal absence review meetings, and the Head of Human Resources had recommended that the Committee could consider the option of amending the Procedure to remove the mandatory requirement. However, as there had not been an opportunity to seek the views of the Corporate Management Team, members were asked to defer a decision until further consultation had taken place. The report set out the findings of the consultation exercise. It was confirmed that consultation had taken place with the Strategic Leadership Board, Workers Forums and the Unions.
- 71.2 Councillor Mitchell supported the recommendations in the report and was pleased that further consultation had taken place and believed that the new Procedure had been improved.
- 71.3 Councillor Theobald felt that the level of sickness was high and was double the level of private sector employees, and asked if relaxing the procedures would help reduce the level of sickness. The Head of Human Resources suggested that it was not a relaxation of procedures, but rather a different emphasis to the issue. It was hoped that the procedures would improve the sickness level.
- 71.4 Councillor Powell thanked Human resources for the work they had done, and felt that the suggested changes would particularly help those with a disability. Councillor Powell proposed two additional recommendations to the report, which were seconded by Councillor MaCafferty. The two additional recommendations were:
1. That the committee requested Human Resources to include the Disabled Workers Forum in discussions on the training for managers.
 2. That the new Attendance Management Procedure be reviewed after six months by the appropriate committee.

71.5 Councillor Randall thanked Human Resources for their work on the Procedure and felt that it had been improved. Councillor Randall stated that he supported the new recommendations.

71.6 Councillor Norman stated that she supported the new recommendations but was concerned that they had only been tabled at the meeting and had not been circulated before. Councillor Littman apologised on behalf of Councillor Powell, but said that information from the Disabled Workers Forum had only been received shortly before the meeting.

71.7 The Committee voted on the new recommendations and agreed that they should be included.

71.8 **RESOLVED:**

- (1) That the committee noted the views of all parties who had contributed to the review of this procedure and thanked them for their input.
- (2) That the committee agreed to the current Attendance Management Procedure being amended to remove the mandatory requirement to always hold a formal absence review meeting when an employee's sickness reached an attendance concern level.
- (3) That the committee agreed to amend the current procedure to ensure that managers always held a return to work discussion when an employee returned to work after a period of sickness absence.
- (4) That the committee noted that further training for managers would be provided to equip them to determine when it was appropriate to convene a formal Absence Review meeting where an employee's sickness absence reached an attendance concern level.
- (5) That the committee requested Human Resources to include the Disabled Workers Forum in discussions on the training for managers.
- (6) That the new Attendance Management Procedure be reviewed after six months by the appropriate committee.
- (7) That the committee instruct officers to make the necessary amendments to the Attendance Management Procedure to give effect to recommendations (2) to (6) inclusive to take effect from 1 April 2012.

72. PROPOSED MEETINGS TIMETABLE 2012/13

72.1 The committee considered a report of the Strategic Director, Resources. The report set out the proposed schedule of meetings for the municipal year 2012/13 based on the new governance arrangements. The timetable allowed for an eight week cycle of meeting, taking into account school terms, a summer break and public holidays. There would be an overall reduction in the number of meetings held. The time the meetings would start had been considered and s58 of the Equalities Act had been taken into

account. An Equalities Impact Assessment had been undertaken to look at the impact of different times. It had not been possible to find a time that would be suitable for all councillors, but the best option was for the meetings to commence at 4pm.

- 72.2 Councillor Theobald agreed with the proposed timetable, but asked if in future the dates of the political party conferences could be noted to ensure that no meetings were scheduled during those dates.
- 72.3 Councillor Randall agreed with the proposed timetable but a number of Green Party councillors had young children which could impact on them attending meetings at certain times.
- 72.4 **RESOLVED:** That the proposed timetable of meetings for 2012/13 be approved.

73. SOUTH DOWNS NATIONAL PARK AUTHORITY - DELEGATION OF DEVELOPMENT CONTROL FUNCTION TO CONSTITUENT AUTHORITIES

- 73.1 The committee considered the report of the Strategic Director, Place regarding the South Downs National Park Authority and the termination of Development Control Agency Arrangements in Brighton and Hove. The South Downs National Park Authority (SDNPA) became the Local Planning Authority for the National Park on 1 April 2011. The Council entered into an Agency Agreement under s101 of the Local Government Act 1972 with the SDNPA to provide Development Control services for that part of the National Park within the City on a temporary basis of up to three years. The report sought to terminate that agreement. The number of applications reviewed over the last year had been low, with 23 applications having been received. The SDNPA now had its own planning department.
- 73.2 Councillor Theobald said that termination of the agreement had been expected, but had concerns over where the planning meetings would be held. Councillor Theobald was advised that the meetings would be held in Midhurst, unless there were a high number of residents involved in a matter when an alternative more locally based venue would be considered. Councillor Theobald was concerned that Midhurst was difficult to travel due, with a lack of public transport, and felt that an alternative venue such as Arundel should be considered. The Chair asked if those comments could be passed to the SDNPA.
- 73.3 **RESOLVED:** That the Governance Committee recommend that Council agrees that the Agency Agreement dated 21 June 2011 between South Downs National Park Authority and the Council relating to the provision of planning services in Brighton and Hove be terminated on a date to be agreed by the South Downs National Park Authority and the Strategic Director, Place.

74. REVIEW OF MEMBERS ALLOWANCES

- 74.1 The Committee considered a report of the Independent Remuneration Panel (IRP). The Chair of the IRP introduced the report. The Council had agreed to adopt new governance arrangements and move from the Leader and Cabinet model to a Committee System. The Independent Remuneration Panel had therefore been asked to consider the implications for the Special Responsibility Allowances paid to councillors with specific positions held in the new governance arrangements.

- 74.2 The Chair thanked the Independent Remuneration Panel for their work.
- 74.3 Councillor Morgan noted that there was no Special Responsibility Allowance for the Deputy Chairs of the two scrutiny committees, and asked if that would send out a message that those committees were not seen as equal. The Chair of the IRP said that the role of the Deputy Chair on the scrutiny committees had been fully considered, but not enough evidence had been provided to convince the panel that a Special Responsibility Allowance was justified. However, the matter would be monitored over the coming year, with particular attention paid to the role of the Deputy Chairs.
- 74.4 Councillor Randall said that Foster Panel did a great deal of work, and suggested that their role be looked at too. The Chair of the IRP agreed.
- 74.5 **RESOLVED:** That Council be recommended to approve the following:
- (1) That the Special Responsibility Allowance for the Leader's position remain at the current level of £28,758 as outlined in paragraph 3.4 and appendix 1 to the report
 - (2) That the Special Responsibility Allowance for the two Deputy Leaders' positions remain at the current level of £17,254 as outlined in paragraph 3.4 and appendix 1 to the report
 - (3) That the Special Responsibility Allowance of £10,967 be payable to the Chairs of Committees as outlined in paragraphs 3.6 to 3.9 and appendix 1 to the report
 - (4) That a Special Responsibility Allowance of £8,626 be payable to the Deputy Chair of Policy & Resources (with responsibility for Finance & Resources), as outlined in paragraph 3.7 of the report
 - (5) That a Special Responsibility Allowance of £3,594 be payable to the Deputy Chairs of Planning and Licensing Committees, as detailed in paragraph 3.9 of the report
 - (6) That the Special Responsibility Allowance of £2,156 for the Deputy Chairs of Committees be payable as outlined in paragraphs 3.6 to 3.9 and appendix 1 to the report
 - (7) That a Special Responsibility Allowance of £2,156 be agreed for the four positions of Opposition Spokesperson as outlined in paragraph 3.10 of the report
 - (8) That the remaining aspects of the current Members' Allowance Scheme be retained with the inclusion of the changes in Special Responsibility Allowance's as outlined above (2-8) form the Members Allowances Scheme 2012/13 set out at Appendix 2 to the report and to take effect from 18 May 2012

75. PAY POLICY STATEMENT

- 75.1 The committee considered the report of Strategic Director Resources on the Pay Policy Statement. The committee were advised that the Localism Act 2011 required Local Authorities to produce a pay policy statement for 2012/13 and for each subsequent

financial year. The statements should set out the council's policies on a range of issues relating to the pay of its workforce, particularly its senior and lowest paid staff. The committee were asked to recommend Council to adopt the Pay Policy Statement as set out in the report.

- 75.2 Councillor Mitchell said that the Labour and Cooperative Party could not recommend the proposed policy to Council as the party had issues with the higher paid members of staff. Councillor Mitchell referred to paragraph 3 of the Pay Policy Statement relating to the lowest paid members of staff, and asked if all those who were casual workers would be paid the Living Wage. Councillor Mitchell was advised that there were different categories of casual staff. There were two thousand casual staff on the council's books, but only 500 currently working for the council with many of them only working one day a week. The agency staff were different in that the council paid the agency a set rate for the job. All workers were paid at least the Living Wage.
- 75.3 Councillor Norman referred to paragraph 4 of the Pay Policy Statement, which stated that council would have the opportunity to vote on salary packages of over £100,000 prior to an appointment being made. Councillor Norman was concerned that due to the number of Full Council meetings being held there may be a delay in getting agreement and thereby appointing staff. Councillor Norman was advised that there could be problems with timing and suggested that consideration of salary packages could be delegated to a committee. Councillor Randall thought that it would be sensible to delegate that duty to a committee. The committee were advised that there was Code of Recommended Practices and the council were looking to follow that Code.
- 75.4 Councillor Theobald noted paragraph 3.7 of the report which referred to the system of 'earn back'. Councillor Theobald was advised that the council didn't operate performance related pay and so 'earn back' could not be implemented.
- 75.5 Councillor Powell asked if the Living Wage were paid to agency staff. Councillor Powell was advised that agency workers were by an Agency Workers Directive, but once they had been employed for eight weeks by the council they would be covered by the Living Wage.
- 75.6 Councillor Powell referred to paragraphs 8 and 9 of the Pay Policy Statement and asked if comparators were used to set the salary of the most senior members of staff. It was confirmed that comparators from other local authorities were used.
- 75.7 **RESOLVED:**
- (1) That the committee recommend to Council the adoption of the Pay Policy Statement as set out in appendix A to the report.
 - (2) That the committee noted the proposal to extend the role of the current Member Appointment Panel to become a Recruitment and Remuneration Panel which would be responsible for the provision of advice on the council's pay policy and the starting salary of new appointees to Chief Officer posts. The extended role of the Panel would come into force when the new constitution was approved and adopted by full council on 26 April 2012.

- (3) That the committee noted the requirement that Council approve a Pay Policy Statement annually.

76. COMMITTEE REPORT FOR REVIEW OF PART 9.4 OF THE CONSTITUTION

- 76.1 The committee considered the report of the Strategic Director Resources on the review of Part 9.4 of the Council's Constitution, which covered guidance to members and officer serving on outside bodies. A number of changes to the regulatory framework relevant to outside appointments had occurred since Part 9.4 was last reviewed. The report highlighted those changes and proposed an amended version. Governance Committee was asked to agree the amendments and recommend them to Council.
- 76.2 **RESOLVED:** That the committee agreed the amended version of Part 9.4 of the Council's constitution, as set out in Appendix 1 to the report, and recommend it to Council for approval.

77. REVIEW OF CONSTITUTION

- 77.1 The committee considered the report of the Monitoring Officer which set out a new constitution for Brighton & Hove City Council. The Localism Act 2011 gave local authorities the option of adopting a committee based system of governance. In December 2011 Full Council resolved, in principle, to move to a committee system at the earliest opportunity. Following that resolution a New Constitution Member Working Group was set up to work with officers to implement that system. The new system would have fewer decision making bodies, going from 24 to 19, which would be more cost effective and streamlined and it would be more inclusive as it would allow all parties to be involved. The opportunity for both Members and the public to ask questions, submit deputations and petitions etc would be retained. It should be noted that Brighton & Hove City Council would be the first authority to bring in the committee system under the new legislation.
- 77.2 Councillor Morgan, as a member of Working Group, thanked officers for their work in this matter. The Working Group wanted to ensure that a clear democratic system be provide, so the public would understand how and when decision would be made.
- 77.3 Councillor Randall agreed with Councillor Morgan and anted to thank officers and members of the Working Group for all their hard work. It was important that the democratic process as inclusive and felt it was a better system than the Leader and Cabinet model.
- 77.4 Councillor Norman also thanked all those involved, and for having completed it in such a short period of time. Councillor Norman referred to paragraph 8.2 of the report and suggested that the three party spokespersons on Adult Care and Health be nominated to attend the Joint Commissioning Board. Councillor Norman was advised that that was the intention, but a protocol would be taken to Leaders Group.
- 77.5 Councillor Theobald thanked everyone who was involved in this matter. Councillor Theobald noted that it was proposed that the Policy and Resources Committee have ten members, but given the expected workload it would be more appropriate to have twelve members. The previous Policy & Resources Committee had fifteen members. Councillor

Theobald moved an amendment to the suggested recommendation. The amendment was seconded by Councillor Norman. The amendment read:

That recommendation 2.1 (ii) relating to Part 2 of the Constitution, Article 6, Committees and Sub-Committees (page 106 of the agenda) and Appendices 1 and 6 to the report be amended to reflect:

“That the Policy & Resources Committee has a total of 12 seats, to be allocated in direct proportion to the split of seats on the Council – Green 5, Conservative 4 and Labour 3.”

77.6 Councillor Mitchell stated that she would not be supporting the amendment as she felt that ten members for Policy and Resources would be adequate and would be the same as other committees.

77.7 Councillor Randall stated that he would not be supporting the amendment.

77.8 A vote was taken on the amendment but was not agreed.

77.9 Councillor Theobald noted that there would be an Environment & Sustainability Committee and a Transport Committee, and suggested that as there would be a crossover between the two committees, and some items may need to go to both committees, that it would be more efficient to combine the two to form one committee. Councillor Theobald moved an amendment to the suggested recommendation. The amendment was seconded by Councillor Norman. The amendment read:

That recommendation 2.1 (ii) relating to Part 2 of the Constitution, Article 6, Committees and Sub-Committees (page 106 of the agenda) and Appendices 1 and 6 to the report be amended to reflect:

“That the proposed Environment & Sustainability and Transport Committees be combined to form one Environment Committee, leading to approximate savings to the Council of £15,000 per annum.”

77.10 Councillor Randall felt that Transport was an important issue and warranted its own committee and so would not be supporting the amendment. It was suggested that the issue could be reviewed in the future.

77.11 Councillor Mitchell felt that combining the two committees could lead to too many items going to one committee and so did not support the amendment. However, Councillor Mitchell suggested that the agendas of the two committees be monitored and be reviewed in due course.

77.12 A vote was taken on the amendment but was not agreed.

77.13 Councillor Shanks asked for confirmation that there would be a statutory role for the Lead Member for Children’s Services. It was confirmed there would be.

77.14 **RESOLVED:** That the committee recommends to Council:

- (i) That the Council resolves, in accordance with section 9KC of the Local Government Act 2000, to change its governance arrangements from leader and cabinet to a committee system.
- (ii) That the parts of the constitution set out in Appendix 1 to the report (being the parts where there are substantive changes) be approved.
- (iii) That the transitional arrangements in relation to the Audit and Standards Committees, as set out in paragraph 16.3 of the report, be approved and adopted until such time that the relevant Regulations relating to standards are made and come into force
- (iv) That the current scheme of delegations to officers be approved subject to the changes set out at Appendix 5 to the report and any other consequential modifications
- (v) That the rest of the existing constitution be approved and adopted, subject to such amendments as are necessary to make them fit for a committee system
- (vi) That the Monitoring Officer be authorised to make the minor and consequential changes referred to in paragraphs 2.1(iv) and 2.1(v)
- (vii) That the constitution as set out in Appendix 1 to the report, with the addition of the parts referred to in 2.1(v) above, be approved and adopted as the Council's constitution in accordance with the requirements of the Local Government Act 2000 and relevant Regulations, Orders and Directions made by the Secretary of State
- (viii) That the new system of governance and the new constitution come into force immediately after the conclusion of Annual Council on 17 May 2012
- (ix) That the Chief Executive be authorised to take all steps necessary or incidental to the implementation of the new governance arrangements, including the power to make such transitional arrangements as are necessary for the orderly implementation of the proposals
- (x) That officers be instructed to make copies of the Council's new constitution available at its principal offices and to publish a notice describing the new arrangements, in accordance with s9KC of the Local Government Act 2000
- (xi) To note that the issue of Member's Allowances be dealt with separately elsewhere on the agenda and that any proposed Code of Conduct be referred to Council as part of the recommendations from the Standards Committee

The meeting concluded at 5.30pm