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## REPORT OF CABINET

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### MEETING HELD ON 17 SEPTEMBER 2009

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Chairman: \* Councillor David Ashton

Councillors: \* Marilyn Ashton  
\* Miss Christine Bednell  
\* Tony Ferrari  
\* Susan Hall

\* Jean Lammiman  
\* Barry Macleod-Cullinane  
† Paul Osborn  
\* Mrs Anjana Patel

\* Denotes Member present

† Denotes apologies received

[Note: Councillor Bill Stephenson also attended this meeting to speak on the item indicated at Minute 670 below].

#### **PART I - RECOMMENDATIONS**

##### **RECOMMENDATION I - Local Government and Public Involvement in Health Act 2007 Leadership Models**

Cabinet received a report of the Director of Legal and Governance Services, which set out the result of the consultation undertaken in relation to the Council's proposal to adopt new Executive arrangements in accordance with the Local Government and Public Involvement in Health Act 2007.

**Resolved to RECOMMEND:** (to Council)

That (1) a Leader and Cabinet Executive model be adopted;

(2) provision be made for the removal of the Leader during their term of office;

(3) appropriate public notices be given and changes to the Council's Constitution be made to reflect the changes.

**Reason for Recommendation:** To ensure that the Council complies with its statutory obligation.

**PART II - MINUTES**664. **Demonstration on 11 September 2009:**

The Leader of the Council referred to the cross-party stance taken against the demonstration outside Harrow Central Mosque and was proud of the collective support shown for the Mosque. He was confident that very few residents of Harrow had participated in the demonstration, and that Harrow had a proud record of community harmony. The Leader of the Labour Group agreed with these sentiments.

665. **Portfolio Holder for Community and Cultural Services:**

The Leader of the Council welcomed Councillor Jean Lammiman to her first Cabinet meeting as Portfolio Holder for Community and Cultural Services.

666. **Declarations of Interest:**

**RESOLVED:** To note that the following interests were declared:

<u>Agenda Item</u>	<u>Member</u>	<u>Nature of Interest</u>
8. Scrutiny Review – Extended Schools as Community Resources	Councillor Barry Macleod-Cullinane	The Member declared a personal interest in that his sister taught at a High School in Harrow. He would remain in the room during consideration and determination of this item.
12. Complaint against Harrow Council in respect of the Amalgamation of West Lodge First School and West Lodge Middle School	Councillor Julia Merrison	Prior to the consideration of this item, the Member, who was not a Member of Cabinet, declared an interest in that she had represented the Council during the hearings on this item. She would remain in the room to listen to the debate on this item.
13. A new Vision for West London's Joint Waste Management Strategy	Councillor Susan Hall	The Member declared an interest in that she was a member of the West London Waste Authority Board. She would remain the room during consideration and determination of this item.

667. **Minutes:**

**RESOLVED:** That the minutes of the meeting held on 16 July 2009, be taken as read and signed as a correct record.

668. **Petitions:**

A representative from Harrow Friends of the Earth submitted a petition containing 86 signatures from residents of Harrow urging the Council to get serious about CO2. He read out the terms of the petition to the meeting, which were as follows:-

“We need a serious commitment from our local Council. Councils have a big say in how we heat and power our homes and how we get around. So, we need you to take steps that will lead to meaningful cuts in carbon emissions. Councils should:

- commit to carbon emission cuts in our local area of at least 40% by 2020 – and produce an action plan detailing how it is going to happen;
- back our campaign for more money and less hassle for Councils to do things like improve public transport, insulate more homes and install green energy;
- support a call for a new duty on Councils that fail to act on climate change”.

**RESOLVED:** That the petition be received and considered with the report on the Climate Change Strategy which was also on this meeting's agenda, and it also be referred to the Portfolio Holder for Environment Services and Community Safety.

[See also Minute 681].

669. **Public Questions:**

**RESOLVED:** To note that the following public questions had been received:

1.

**Questioner:** Dr Ben Lucas

**Asked of:** Councillor David Ashton, Leader of the Council and Portfolio Holder for Strategy, Partnership and Finance

**Question:** "The finding of maladministration was largely based on the Council reneging on its undertaking to West Lodge Middle School Governors. This finding is obviously painful to Senior Officers who went to great lengths to deny this during the complaints investigation - is the Cabinet satisfied that the culture within Education Service has changed and that such a breach of trust would not recur?"

**Answer:** See Question 2.

**Supplemental Question:** Are you aware that the officer's report to Cabinet is not quite accurate? For example, there were no Middle School Governors invited onto the amalgamated school's Governing Body and that still, even now, the Governing Body for the amalgamated school is not representative of the old schools' general population.

**Supplemental Answer:** The constitution and make up of the governing body is outside the remit of the Council and is the responsibility of the substantive governing body to determine.

Officers wrote to the Chair of governors asking them to ensure that the governing body was representative of the whole school community and the actions in the plan were fed back by the governing body.

The plan actually says that 'The Local Authority should also recommend a process for the appointment of a new Governing Body to ensure that it is representative of the full age range of pupils and can move on from the current tensions'.

This was done and the Governing Body reported that:

Former Middle School representation was arranged with two staff invited on the governing body and five representatives on the working groups.

2.

**Questioner:** Pamela Fitzpatrick

**Asked of:** Councillor David Ashton, Leader of the Council and Portfolio Holder for Strategy, Partnership and Finance

**Question:** "In relation to its actions at West Lodge Middle School the Ombudsman not only found the Council guilty of maladministration but also guilty of bias against the Middle School Governing Body. The report now presented to Cabinet by Officers fails to inform Cabinet of this key finding by the Ombudsman.

Will the Local Authority now take some action to remedy the culture identified by the Ombudsman of Senior Officers failing to follow proper processes, exaggerating claims and failing to properly brief Members?"

**Answer:** The two public questions that we have are both related to the amalgamation of West Lodge School and therefore it seemed appropriate that we hear both questions and I give a combined response, which more fully explains the Council's position. Given the complex nature of this issue, any supplementary questions, and obviously you have one each if you wish to ask them, will be responded to in writing and included within the minutes.

It was accepted and an apology was offered by the Corporate Director at Stage 2 of the Council's internal complaints process, that the Middle School Governing Body had been incorrectly advised that they could veto an amalgamation. The Council has learned from this experience, an action plan has been devised and implemented and the amalgamation policy and guidance were amended. A full response to the findings of an independent Stage 3 panel was made to the complainants by the Chief Executive. In addition, the Chief Executive, Senior Officers and the Councillors made apologies.

The Council acknowledges the letter to the Council from the Ombudsman's investigator, dated 11 June 2009 and states that the Ombudsman is likely to uphold the Review Panel's view that there was at least the impression of bias against the Governing Body. The Council does not accept that it acted in a biased manner towards the Middle School Governing Body and the Ombudsman has made no recommendations on the issue of bias in his settlement.

The Council has liaised with the Ombudsman's office to ensure the local settlement is fulfilled and the Ombudsman has confirmed that he is satisfied that the Council has fulfilled the terms of the local settlement and has advised that publishing his letters of 15 April 2009 to the complainant and 11 June 2009 to the Council is appropriate. They therefore will be included in the minutes of the meeting for transparency and have been circulated to Members, in other words they are tabled to this meeting.

The crucial point is that the Ombudsman did not find that the mistakes of the Council caused any injustice, rather that the correct amalgamation decision was made.

**Supplemental Question:** The exaggerated claims of the public displays advised by a senior officer of the Council, appears to have encouraged a small but vocal group of people at the school to take part in a campaign of abuse and harassment against the actions of the Middle School's Governing Body. What action is the local authority now going to take against those Harrow employees and the Harrow appointed Governors who were involved in the setting up and/or the signing of, the abusive and inflammatory online petition, an amended version of which remains available on the internet to date?

**Supplemental Answer:** The actions of Council officers have been considered through three stages of the Council Complaints Procedure and by the Ombudsman. All recommendations from these processes have been acted upon where they were upheld so no further action is required. The actions of Harrow appointed governors have been considered through a specific process and the matter resolved.

The decision to instigate an on-line petition and the comments made on it by the members of the public is beyond the jurisdiction of the Council.

[Note: In accordance with Executive Procedure Rule 16.3, questions 1 and 2, which were similar, were grouped together. In accordance with Executive Procedure Rule 16.4, the questioners each asked a supplemental question. It was noted that written answers would be sent to the questioners in relation to the supplemental questions asked and that the responses would also be included in the minutes together with the letters dated 15 April 2009 from the Ombudsman to the complainants and that of 11 June 2009 to the Council. These have been reproduced at appendices A and B respectively].

670. **Councillor Questions:**

**RESOLVED:** To note the following Councillor Questions had been received:

1.

**Questioner:** Councillor Bill Stephenson

**Asked of:** Councillor David Ashton, Leader and Portfolio Holder for Strategy, Partnership and Finance

**Question:** "Can you tell us precisely who will be eligible to become members of the proposed Harrow Credit Union? For example, will anyone who lives and works in Harrow be eligible?"

**Answer:** Anybody who lives or works in Harrow will be able to join the M for Money Credit Union subsequent to commencement of operations in Harrow. Harrow is going to start with its employees and then expand it to others. We have to start with an initial group but the intention is for anybody living in Harrow.

**Supplemental Question:** Are there any financial bars for anybody who wanted to join and, if members do join, will they all be treated equitably. For example, those who work for a firm and take a deduction from salary, according to our report, seem to be able to get better terms. What is the principle of equity for all residents in Harrow and all those who work in Harrow?

**Supplemental Answer:** It is easier to operate a scheme if a deduction from payroll is taken. It will be easier to generate a critical mass with Council employees and then extend to others. The intention is to bring people into the remit who otherwise find it hard to get credit and it will include those who do not necessarily have a standard job relationship. We also have to be careful that we maintain a proper standard of lending but the objective is to be as wide as possible.

2.

**Questioner:** Councillor Bill Stephenson

**Asked of:** Councillor David Ashton, Leader and Portfolio Holder for Strategy, Partnership and Finance

**Question:** "As part of the Transformation Project the Council is commissioning work from both Capita and Price Waterhouse Cooper. Can Councillor Ashton tell me how much each of these two firms will be paid?"

**Answer:** Both Capita and Pricewaterhouse Coopers (PWC) were appointed under the existing framework agreements in place with the Council and a budget of £500k set aside to fund the Transformation Programme this year.

There will be fees to pay to PWC. There are currently no fees paid to Capita. The actual specifics of the PWC figure is not for the public domain and I will write to you separately.

**Supplemental Question:** Are there any clauses in the contracts to ensure that we get guaranteed saving from the advice which they give us?

**Supplemental Answer:** I will look at the contracts in detail and include in my response.

3.

**Questioner:** Councillor Bill Stephenson

**Asked of:** Councillor Susan Hall, Portfolio Holder for Environment Services and Community Safety

**Question:** "A little while ago you launched a campaign for local businesses and organisations to adopt a flowerbed. Can you tell us how many flowerbeds have been adopted up to the present time?"

**Answer:** There has been a great deal of interest in this. We already have two flower beds looked after and there has been interest from the Roxeth Free Church. We are currently in negotiations with people based in Harrow Weald. Elm Park School and a Traders' Association in Hatch End have also expressed an interest in looking after flower beds and we have received an expression of interest from a solicitor that is looking to sponsor some hanging baskets.

We are also considering renegotiating a contract for adopting roundabouts which could result in further revenue to the Council.

**Supplemental Question:** So, at the moment you have four possible adoptions. Is that right?

**Supplemental Answer:** Correct.

4.

**Questioner:** Councillor Bill Stephenson

**Asked of:** Councillor Barry Macleod-Cullinane, Portfolio Holder for Adults and Housing

**Question:** "What is the current position concerning the review of the BPE contract for parking enforcement on certain Council estates?"

**Answer:** As this matter has arisen on a number of occasions, we are examining the issues left by Borough Parking Enforcement. There is no actual contract signed and this is one of the problems inherited when we came into power in 2006. We have been examining how we can put in place proper enforcement of parking arrangements on our estates where there is demand for it but in a way that is cost effective for our tenants and leaseholders. We do not want to increase charges to the detriment of our tenants and leaseholders.

**Supplemental Question:** Is it not the case that some talks and reviews have been carried out and that the Council was about to make a decision? I am just wondering whether you can report back action being taken or, is it that you have made no progress?

**Supplemental Answer:** We have been trying to identify companies willing to take this on as these roads are not adopted. As a result these cannot be passed to Highways Enforcement to act upon - which would have been the cheapest and most cost effective route. If we had put them to highways, it would cost tens of thousands of pounds each to get the roads adopted under the current legislation. Instead, we are looking at various companies trying to identify ones that can do it cost effectively and achieve reasonable targets of service standards. We are also looking at various other options and I anticipate receiving a report next week. Therefore, it is not appropriate to put details in the public domain.

[Note: In accordance with Executive Procedure Rule 17.4, Councillor Bill Stephenson asked supplemental questions in relation to each question, which were additionally answered. In relation to question 2, the Leader of the Council undertook to write to Councillor Stephenson with additional information].

671. **Forward Plan 1 September 2009 - 31 December 2009:**

The Chairman advised that two of the items marked as key decisions – Accessible Homes SPD and the Local Authority Music Plan – had not been included on the agenda for the meeting. Accessible Homes SPD was not considered to be a key decision at this stage and would be determined by the Portfolio Holder for Planning, Development and Enterprise. The Local Authority Music Plan was also not key and a

Plan for the Community and Cultural Services Portfolio rather than a matter for Cabinet.

**RESOLVED:** To note the contents of the Forward Plan for the period 1 September – 31 December 2009.

672. **Membership of Cabinet Bodies:**

**RESOLVED:** That (1) Councillor Phillip O'Dell replace Councillor David Gawn as a Labour Member of the Tenants' and Leaseholders' Consultative Forum;

(2) Councillor David Gawn replace Councillor Phillip O'Dell as first Labour Reserve on the Tenants' and Leaseholders' Consultative Forum;

(3) Ms Kamlesh Bahl, I-Foundation representative, be appointed to the Harrow Admissions Forum.

**Reason for Decision:** To enable the changes in membership to be implemented prior to the next meetings of the bodies concerned.

673. **Scrutiny Review - Extended Schools as Community Resources:**

The Portfolio Holder for Schools and Children's Development introduced the report, which set out the response from Children's Services to the recommendations of the scrutiny review of Extended Schools as Community Resources. The Portfolio Holder welcomed the co-opted member of the Overview and Scrutiny Committee who had participated in the Review and congratulated the Review Group on producing an excellent piece of work. She was pleased with the proposal to hold a Challenge Panel in six months' time to review the implementation of the recommendations.

The Portfolio Holder added that officers were working with clusters and various Partners in this regard, and that the concept of extended schools was also a priority for the Council.

An officer welcomed the recommendations of the Review Group, which were supported by the schools. She was pleased that good practice was being shared.

The Portfolio Holder for Community and Cultural Services welcomed the recommendations of the Review Group and the progress made on developing and embedding of extended schools as a community resource.

**RESOLVED:** That the response to the recommendations of the Overview and Scrutiny Review Report – Extended Schools as Community Resources be endorsed.

**Reasons for Decision:** To enhance future planning and delivery of the extended schools programme.

[See also Minute 666].

674. **Progress on Scrutiny Projects:**

**RESOLVED:** To receive and note the current progress of the scrutiny reports.

675. **Key Decision: Risk Management:**

The Corporate Director of Finance introduced the report, which set out the current position with regard to risk management within the Council and sought approval of the associated strategy. She stated that a key aspect of the Strategy was the joint work being done with the Partners instead of the Council working in isolation.

**RESOLVED:** That (1) the current risk management position be noted;

(2) the Risk Management Strategy and the Policy for 2009/10 be approved.

**Reason for Decision:** To ensure Cabinet was aware of the progress being made in Risk Management and the long and short-term activities planned which form the Risk Management Strategy.

676. **Revenue and Capital Monitoring 2009/10:**

The Leader of the Council and Strategy, Partnership and Finance Portfolio Holder referred to the report, which set out the Council's revenue and capital forecast position for 2009-10. He stated that the report provided a summary of the current situation and that a detailed report would be presented to Cabinet in October 2009.

The Corporate Director of Finance drew Members' attention to the projected overspend in Children's Services which was mainly due to the underlying pressures carried forward from 2008/09. She highlighted the underspend in other Directorates, and did not foresee any potential problems with the Housing Revenue Account. She referred to the need to a virement of a budget and it was

**RESOLVED:** That (1) the revenue and capital forecast outturn position for 2009-10 be noted;

(2) a virement of £304,000 from the Local Authority Business Growth Incentives (LABGI) to fund high priority expenditure in Economic Development, Place Shaping, be approved;

(3) the Corporate Directors report back to the October 2009 Cabinet meeting clearly setting out the implications of the 2008/09 outturn.

**Reason for Decision:** To present the forecast financial position and the actions required.

677. **Key Decision: Future Organisation of Priestmead First School and Priestmead Middle School:**

The Portfolio Holder for Schools and Children's Development introduced the report, which sought the amalgamation of Priestmead First and Middle Schools with effect from 1 January 2010. It was noted that the statutory proposals had been published in June 2009 to effect the amalgamation and that no objections had been received during the representation period.

Members were informed that, as part of the proposals, a technical adjustment would be required and Cabinet's authority to delegate the responsibility to the Portfolio Holder to determine additional statutory proposals was also being sought.

The Leader of the Council reported on the change to the reason for recommendation.

Cabinet, having had regard to the statutory and non-statutory guidance provided by the Department for Children, Schools and Families

**RESOLVED:** That (1) the statutory proposals to close Priestmead First School and extend the age range and expand the capacity of Priestmead Middle School to effect the amalgamation of the two schools from 1 January 2010 be agreed;

(2) statutory notices be published early in 2010 to clarify the school reorganisation position in September 2010;

(3) the Portfolio Holder for Schools and Children's Development be authorised to determine the additional statutory proposals.

**Reason for Decision:** To allow the two very successful schools to come together as one school and continue to improve even further.

678. **Complaint against Harrow Council in respect of the Amalgamation of West Lodge First School and West Lodge Middle School:**

Cabinet considered a report of the Corporate Director of Children's Services, which set out the findings of the Ombudsman following consideration of a complaint against the Council regarding the amalgamation of West Lodge First and Middle Schools.

The Portfolio Holder for Children's Services apologised for the failings in the process. She added that the school was flourishing and making good progress and emphasised the need to move forward in a positive manner.

The Director of Schools and Children's Development stated that the purpose of the report was to inform Cabinet of the outcome of the Ombudsman's investigation into the complaints from three local residents. The Ombudsman had ruled that the Council had made errors during the process and upheld the complaint that there was maladministration. However, in his assessment, the Ombudsman concluded that even without maladministration, the outcome for the schools would not have been different. The Director apologised to the complainants for the failings in the process although she considered that the judgement reached on the future of the schools had been the right one.

Letters from the Ombudsman to the complainants and to the Council were circulated to Members of Cabinet at the meeting.



**RESOLVED:** That (1) the recommendations of the Local Government Ombudsman and the implementation of the settlement proposal be noted;

(2) the improvements made to managing Complaints and Amalgamations at Annexe C to the report of the Corporate Director of Children's Services be noted.

**Reason for Decision:** To fulfil the Local Government Ombudsman's recommendations.

[See also Minute 666].

679. **Key Decision: A new Vision for West London's Joint Waste Management Strategy:**

Cabinet received a report of the Divisional Director of Environment, on a new vision for the Joint Waste Strategy, which covered West London Waste Authority (WLWA) and the six constituent authorities. The Divisional Director stated that there was a statutory requirement to have a waste strategy in place.

The Portfolio Holder for Environment Services and Community Safety commended the report to Cabinet and was proud of Harrow's current performance on recycling. Amongst the six constituent authorities, Harrow recycled more than its neighbours.

**RESOLVED:** That the addendum to the existing West London Waste Authority Joint Waste Strategy be endorsed.

**Reason for Decision:** To ensure that the revised Joint Waste Strategy was endorsed by the six constituent authorities of the WLWA.

[See also Minute 666].

680. **Key Decision: London Borough of Harrow - Waste Management Strategy - Adoption:**

The Portfolio Holder for Environment and Community Safety introduced the report, which sought approval of the draft Waste Management Strategy following public consultation. It was noted that public consultation on the draft Strategy had been concluded on 15 May 2009 and the key issues raised had been considered and, where necessary, the Strategy had been amended.

The Portfolio Holder stated that the three-bin system in Harrow had been fully embedded and was pleased to report that households were recycling more now. She hoped that Harrow would exceed the 50% recycling target of 2010/11 and that it would depend on the availability of funding for the introduction of recycling by occupiers of flats.

**RESOLVED:** That the Waste Management Collection Strategy be adopted.

**Reason for Decision:** To ensure effective use of natural resources and consolidate existing policy.

681. **Key Decision: Climate Change Strategy - Adoption:**

Cabinet received a report of the Divisional Director of Environment, which referred to the Council's commitment to address the impacts of climate change having signed the Nottingham Declaration in 2007. It was noted that the draft Climate Change Strategy had been considered by Cabinet at its meeting on 15 January 2009 following which public consultation was undertaken from 2 February to 15 May 2009. Issues raised by the respondents had been considered and the Strategy amended as a result.

The Portfolio Holder for Environment Services and Community Safety thanked representatives of Harrow Friends of the Earth for their petition, and referred to the Council's commitment on reducing carbon emission. She was supportive of their campaign for more money to help Councils to implement changes and make improvements that were sustainable.

The Portfolio Holder for Planning Development and Enterprise stated that she too was committed to the green agenda having been instrumental in proposing that the Council's sign the Nottingham Declaration. She was keen to ensure that the planning process met the requirements of the Strategy.

The Divisional Director of Environment thanked residents and organisations for their responses during the consultation period. He explained that some measures would be

implemented jointly with the Council's Partners, and that further investment would be necessary to take the agenda forward.

**RESOLVED:** That (1) the Climate Change Strategy and Implementation Plan for 2009/10 to 2011/12 be adopted;

(2) the start of the Carbon Reduction Commitment in April 2010 be noted.

**Reason for Decision:** To enable the Council to meet its Carbon Reduction commitment, reduce its energy costs and inform the Local Development Framework (LDF).

[See also Minute 668].

682. **Key Decision: Proposed Assessment Process:**

The Portfolio Holder for Community and Cultural Services introduced the report, which set out the proposed assessment process and revised summary grants report template that were agreed at the Grant Advisory Panel meeting on 8 September 2009. The Portfolio Holder stated that this would enable greater clarity and transparency of the grants criteria and process. She welcomed the input of the voluntary and community sector in this regard.

**RESOLVED:** That (1) the proposed grant tool be approved;

(2) the revised summary grants report template be approved.

**Reasons for Decision:** To address the recommendations raised in the Overview and Scrutiny Review: "Delivering a Strengthened Voluntary and Community Sector for Harrow"(December 2008); and to ensure greater clarity and transparency in the grants process for round 2010/11.

683. **Key Decision: Credit Union:**

The Corporate Director of Place Shaping introduced the report, which set out a proposal to enable the provision of credit union services to people living and working in Harrow. The Corporate Director stated that a number of scenarios had been examined as part of the feasibility process. The scheme would come into operation in 2010.

**RESOLVED:** That (1) officers continue to work with M for Money Credit Union, to facilitate the establishment of a Credit Union in Harrow to serve people living and working in the Borough;

(2) budget resources be allocated from the Economic Contingency, to enable the establishment, commissioning and development of a Credit Union:-

2010/11	-	£13,000
2011/12	-	£12,000

(3) a loan of up to £50,000 be provided to M for Money, to be used as a "line of credit", to enable the provision of loans soon after the commencement of Credit Union services, within Harrow, and the resource be accounted for on the balance sheet, and therefore not impact on the revenue account;

(4) the Corporate Director Place Shaping, in consultation with the Leader of the Council, determine who should initially represent Harrow Council on the M for Money Board of Directors.

**Reason for Decision:** To increase the range of regulated financial services available to residents during a period of national economic recession. To provide support for residents, during the recession and "Improve Support for Vulnerable People" and "Build Stronger Communities" as part of the Council's Corporate priorities.

684. **Member Development - Future Operating Arrangements:**

The Director of Legal and Governance Services introduced the report, which set out the proposals concerning the re-designation of Member Development Panel to become a Cabinet Advisory Panel in light of its increasing focus on individual Member Development and the Council's ambition to attain a Member Development Charter.

**RESOLVED:** That (1) the Member Development Panel be established as a Cabinet Advisory Panel, reporting to the Leader of the Council as part of his Portfolio for Strategy, Partnership and Finance;

(2) having considered the comments of the Standards Committee in relation to the size, political composition and working arrangements of the Panel, the terms of reference, attached at Appendix C to the minutes, the membership of the Panel and the Chair elect, as set out below, be agreed as part of the future operating arrangements:

	<u>Conservative</u>	<u>Labour</u>
	(3)	(2)
<u>I.</u> <u>Members</u>	Jean Lammiman Paul Osborn Yogesh Teli (CH)	B E Gate Phillip O'Dell
<u>II.</u> <u>Reserve</u> <u>Members</u>	1. Mrs Myra Michael 2. Mrs Vina Mithani 3. Husain Akhtar	1. David Perry 2. Nana Asante

**Reason for Decision:** To improve the opportunities available for Member Development in line with the Council's ambitions and to better meet the anticipated growing area of individual Member Development opportunities.

685. **Local Government and Public Involvement in Health Act 2007 Leadership Models:**  
(See Recommendation I).

686. **Timetable for the Preparation and Consideration of Statutory Plans and Strategies 2009/10:**  
Cabinet considered a report of the Director of Legal and Governance Services, which sought to vary the timetable in respect of one plan, the Local Development Framework – Core Strategy Development Plan Document.

**RESOLVED:** That the timetable for the preparation and consideration of the Local Development Framework Core Strategy Development Plan Document, be varied in that the Plan be reported to the Overview and Scrutiny Committee on 12 October 2009 instead of 24 September 2009, as previously reported.

**Reason for Decision:** Cabinet had previously agreed the timetable in order to comply with the requirements of paragraph 3 of the Budget and Policy Framework Procedure Rules set out in Section 4C of the Council's Constitution. It was therefore necessary to seek Cabinet's agreement to vary the timetable.

687. **Lynne Margetts, Scrutiny Manager:**  
Cabinet sent their best wishes to Lynne Margetts, Scrutiny Manager, who was recovering from a major operation.

(Note: The meeting, having commenced at 7.30 pm, closed at 8.27 pm).

(Signed) COUNCILLOR DAVID ASHTON  
Chairman

## APPENDIX A

**Ombudsman Letter to Complainant  
15 April 2009****Private and Confidential**

Our ref:

**Direct Dial: 01572 823945**  
**Direct Fax: 01572 821593**  
**Email: p.warren@lgo.org.uk**

Dear Complainant

**Complaint against London Borough of Harrow**

The Council has sent me the enclosed response to my enquiries into your complaint.

If there is anything in that response with which you disagree or upon which you wish to comment please let me have those comments in the next two weeks or let me know if you need more time. Your comments can be made by telephone, email or letter whichever you feel is more appropriate and convenient for you.

I have taken a view on the complaint but not on the remedy offered by the Council that is something on which we need your comments before we can take a view.

**The Role of the Ombudsman**

The Ombudsman's powers to investigate complaints and limitations on those powers are contained in the following statutes:

- The Local Government Act 1974
- The Local Government and Public Involvement in Health Act 2007

Under those Acts we may not investigate complaints about the internal management of schools which means we cannot investigate the actions of the Governing Body, appointments of teachers or head teachers and we cannot investigate complaints about how a Council deals with complaints about those issues.

Similarly under those Acts where a matter has been before the courts for a decision we may not take a different view from that decided by the courts.

**The Investigation**

As part of my investigation into the complaints I have:

- Spoken with each complainant about their concerns
- Reviewed and considered the papers submitted with the complaint including copies of the reports for the Complaints Procedure and Review Panel and their findings
- Submitted the complaints together with enquiries to the Council
- Received and reviewed the Council's comments which are enclosed with this letter
- Considered a provisional view on the complaints which is being shared with you for your comments
- Put to you in this letter the Council's offer of a local settlement

Following receipt of your comments the complaint will be considered by the Ombudsman who will take the final view or direct what further action he feels we should take.

### **The Council's Investigation**

The Council has considered the complaints made through all three stages of its complaints procedure. Under that procedure of the 52 heads of complaint made 22 were upheld, 2 were partially upheld and 27 were not upheld.

The Review Panel which forms part of the Stage 3 of the Procedure considered the matter and of its conclusions 2 were rejected by the Council's Chief Executive.

The Review Panel was properly constituted and the report to the Panel included the background information on the adoption by the Council of guidance on amalgamation and its decision to use the procedure whereby one school closed and became part of the new or amalgamated school.

In my view the Report was properly considered by the Review Panel and I can see no maladministration that would give me grounds to challenge the Review Panel's decision.

The Council has accepted the Review Panel's view on all but two of the complaints.

### **The Complaints**

I have taken a broad view of the complaints and grouped them together to draw out the systemic concerns that arise from the complaint: it is not appropriate to go through each complaint individually here but I have considered each and the view taken by the Council and Review Panel.

I attach a schedule showing those complaints I have grouped to help explain this letter but that does not include all the complaints made some of which do not fall within my remit.

### **Maladministration and Injustice**

The procedure contained administrative flaws and so the decisions were made with maladministration but as I explained in my earlier letter there is limited injustice that I can remedy for you.

The High Court's decision means that I must accept that but for the maladministration identified in the complaint and in our investigation the outcome would have been the same i.e. the Middle School would have been merged into the new school. So my role in this investigation is to identify what injustice remains when you take away the impact of the decision to close the school on you and your family.

There would always have been anxiety, heartache and concern over the proposals to close a much loved and cherished school whose ethos and reputation had drawn you to it as the choice for your child. There would be disagreement with those who did not agree with the position taken on the closure and those disagreements may persist. So I have to recognise that while the Council's handling of the matter may not have helped, some of these issues would have arisen and possibly continued however the situation had been handled.

But, that having been said, both governors and parents were put to considerable and unnecessary trouble as a result of some of the failings.

### **Council's Policies of 2005 and 2007**

The 2005 policy was poor and led to the debate on the right way forward. It was wrong to say that the governing bodies could make the decision or give the impression the Council was bound by the findings and vote of both bodies. Where, as in this case, the two Governing Bodies voted differently on the proposals the arbitrator is the Council (and the Office of the Schools Adjudicator) and that should have been made clear.

This led not unnaturally to the view that the Council had delegated the decision to the Governing Bodies and it should be bound by the Governing Body's decision. That complaint was not upheld and I cannot uphold it either because in law the Council could not so delegate the decision, but I do find that the Council wrongly gave the impression both that it could and had delegated that decision to the Governing Body.

The later policy of 2007 while attempting to improve information was not subjected to a complete consultation which is a matter of concern because that policy was aimed at resolving problems that had arisen with its predecessor and every effort should have been made to ensure it was adopted following full consultation. That means the policy could come as a surprise to some involved in the process of amalgamation and be seen with some distrust, not a good basis for moving forward.

The policies endorse the Council's preferred procedure where the school which has a vacancy for a head teacher becomes the school that is effectively closed and merged with the other school in this case the First School. The law prohibits me from pursuing any complaint that concerns appointments of Head Teachers: that includes the concerns about obstruction of the appointment process set out in the complaint to the Council.

The Council had to resolve the problems with the original policy and it rightly in my view sought to review the amalgamation process and to set it on the right track.

Information is the key to ensuring that everyone understands the process in which they have been invited to take part. The Policy should include clear explanations of:

- The legal framework in which the proposal will be decided
- The obligations and rights of each constituent party in that framework
- The nature of any consultations and how the results will be considered
- The power of the deciding body to call in any decision
- The rights of appeal if there are any against a decision
- The criteria by which a decision will be made
- The final arbiter of the proposal

The Council's policy failed to meet the standard I would expect and that gave rise to misunderstandings, a feeling of bias and distrust.

### **Involvement of the Middle School Governing Body (MSGB)**

It seems clear from this group of complaints upheld by the Council's investigation and the Review Panel that the MSGB were not best served by the process adopted by the Council.

In the first instance the policy of 2005 wrongly suggested that the Council's power to make the decision was being in fact delegated to the Governing Bodies by suggesting that those Governing Bodies had a right of veto. That was clearly wrong but it set off a chain of events that inevitably has led to people feeling they were ill used and that their time in making representations was wasted.

The MSGB attempted to complete its feasibility study and believed it had been properly completed when it took its vote. The Council said there had been complaints about how the MSGB had taken that decision but it failed to send those complaints to MSGB and so it did not have an opportunity to defend itself against any complaints. That is poor practice and led governors on the MSGB to feel that their views were not being properly considered and to an understandable feeling of bias against them.

### **Bias against the MSGB**

Although not accepted by the Council the Review Panel upheld this complaint. What the Review Panel's finding shows is that the failings in the process taken as a whole especially those concerning failures to check authenticity of representations, statements to Cabinet that the MSGB had not followed the correct procedures etc suggest a bias against the MSGB and that inevitably leaves a sense of outrage for those members of that body who were giving their time and energy to putting across sincerely held beliefs and views. They feel they were wrongly accused of not complying with their obligations. I similarly uphold the complaint in that I believe the Council's failings nurtured that perception of bias and did little to combat it.

I recognise however that the Council was in a position of arbitrating between two governing bodies who had reached different views on the future of their schools that was never going to be an easy path to tread and its failings only made that more difficult for all concerned.

### **Scrutiny by Members**

It is the Ombudsman's view that Scrutiny by Members is a very important part of local governance. It is good practice for Members to scrutinise how a problem with the application of their policy has occurred and how best to achieve a resolution.

When this was called in to Members the Council failed to ensure that Members were aware that:

- The process was only at the first stage of the closure process
- There was statutory guidance on school closures to be considered
- The view of the Portfolio Holder that MSGB had acted inappropriately was not supportable

The failings would not change the final outcome because we have to accept that the court has ruled the decision stands on its own merits but it damages the faith of the public in the scrutiny of decision making processes within the Council and may have led to complainants having to redouble their efforts to get their concerns heard.

### **Future Governance of the New School**

The Council informs me that a new Governing Body will take over the running of the expanded school in April when elections are held and this should reflect the whole of the new school whereas the interim body remains the Governing Body for the First School and which does not unless it co-opts additional members from the former Middle School have any members of the former MSGB on it.

There is nothing to require the First School Governing Body to co-opt former members of the MSGB in that transition period but it seems to me that encouragement should be given for governing bodies in this position to do that as a way of taking the new school forward. However, I must be careful not to stray into an area outside my jurisdiction which clearly the actions of the Governing Body are and I cannot arbitrate on how the new school is or has been governed since merger.

**Provisional Conclusions - Injustice and Remedies**

It seems clear to me from my resume of the groups of complaints upheld by the Review Panel and which I uphold (including the bias to the MSGB) that injustice to you arises be that as a member of the governing body or as an interested parent engaging in the process.

You could not stop the amalgamation and the court's decision leaves me no choice but to take the view but for the maladministration the school would close and be amalgamated and you would no doubt have been involved in time and trouble in opposing the proposal.

You were put to time and effort in pursuing issues which could have been avoided. For that it has offered a sum of £100 in recognition of the work that was additional to the work you would have had to do anyway as a governor in dealing with the process had it been handled properly.

Before we take any view on that proposal your view on that offer in settlement is welcomed and will be taken into account by the Ombudsman when he decides what he thinks would be a reasonable remedy.

Please let me have your comments on what the Council has said and its offer of a remedy within the next two weeks or let me know if you need additional time in which to respond.

I look forward to hearing from you.

Yours sincerely

**P E Warren**  
**Investigator**



## APPENDIX B

**Local Government**  
**OMBUDSMAN**

11 June 2009

Mr Stuart Dalton  
Complaints Manager  
London Borough of Harrow  
DX 30450  
Harrow 3

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Dear Mr Dalton

**Complaints**

The complainants have now responded to our provisional view on the matter, and I am reviewing the file ready to make a recommendation on the settlement to the Ombudsman.

***Distinction between Parent and Parent Governors***

In reviewing the papers and as you say this has been a very complex case, I am drawn to the conclusion that the Ombudsman is unlikely to be happy with the distinction drawn between the complainants.

It is very clear that the Ombudsman will uphold the complaints, and he is likely to uphold the Review Panel's view that there was at least the impression of bias against the Governing Body. But when reaching a view on the complaint he will want to treat all complainants in the same way.

Governors have a quasi legal relationship with the Council and it is not one in which we would seek to interfere. The Ombudsman is likely to take the view that we should consider all three complaints from the viewpoint of parents, two of whom happen to be governors.

Much has been said in correspondence with you and the complainants as well as in the papers now before me about the merits of the Governing Body's actions what it did and did not do. The remedy we seek is for the fact that all the complainants felt that they had to bring their concerns to the Council and then to the Ombudsman about the way the decision to amalgamate the two schools was handled.

/...

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Neville Jones  
Deputy Ombudsman

Page 2  
Mr Dalton

*The Settlement*

There is no doubt taking a very broad view that there was maladministration in that process, and the Ombudsman will be very pleased to see the Council accepted all ten recommendations for a remedy that I put forward. He will want to acknowledge that in his final letter to the complainants.

But, as you clearly realise while the Ombudsman has limited injustice he can remedy given the court's decision to uphold the amalgamation, there is sufficient concern about the maladministration here for him to consider if it is in the public interest to issue a report. I believe your arguments against that are valid and I believe that from my earlier discussion with the Ombudsman he will accept a recommendation for a settlement on the terms of the ten recommendations in particular putting the matter to Members (ensuring anonymity for the complainants) so they can consider if further action needs to be taken to prevent recurrence.

Looking at it from a broad perspective we are trying to place these three parents in the position they would have been but for the maladministration. And that leave us with the injustice of having to bring the concerns to the Council as a complaint and to us and to engage with that process.

I recognise that one complainant is considered to have verged on becoming a vexatious complainant during that process and I fully appreciate why the Council may feel that both as that and as a governor they have contributed to their own inconvenience.

From our viewpoint had we moved this on to a report which in all other circumstances I think we would have done, we would have pursued with the Council a remedy of £250 per complainant for the time and inconvenience in participating in the complaint process which but for the maladministration would have been unnecessary. I would be more confident that my recommendation to the Ombudsman would be successful if the Council would agree to a payment to all three complainants of £250. It seems to me that we are in an analogous situation to one where I would now be preparing a draft key facts for comment and while there is not that stage for the complainants to engage in, given the nature of the concerns and the number of incidences of maladministration on which they have wished to comment, the figure seems reasonable to me.

If you can agree that, I will put it to the Ombudsman with my recommendation that we accept this settlement. If the Council cannot agree it I will put the original offer to him with my recommendation that we should be seeking £250 and he will have to decide. I know the Ombudsman is anxious to review this so your prompt response would be very much appreciated.

Yours sincerely

**P E Warren**  
Investigator

## APPENDIX C

**MEMBER DEVELOPMENT PANEL****TERMS OF REFERENCE**

The Member Development Panel will have the following powers and duties:

- (a) to have oversight of the annual programme of member development;
- (b) to prepare and assist in the delivery of the induction of new Councillors following the Borough elections or any by-election;
- (c) to have oversight of the resources allocated for member development and make recommendations to Council for the appropriate resources for the member development function;
- (d) to liaise with external agencies providing development opportunities for members and procure their services as appropriate.