

REPORT FOR: EXTRAORDINARY  
COUNCIL

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Date of Meeting: 23 May 2013

Subject: Health and Wellbeing Board, Health Scrutiny,  
Public Health and Changes to the  
Constitution

Responsible Officer: Hugh Peart - Director of Legal and  
Governance Services

Exempt: No

**Enclosures:** Appendix 1 - Terms of Reference.  
Appendix 2 - Procedure Rules for Health and  
Wellbeing Board  
Appendix 3 – Revised delegations to the  
Director of Public Health to reflect the  
transfer of public health functions  
Appendix 4 – Revised terms of reference to  
the Health and Social Care Scrutiny Sub-  
Committee  
Appendix 5 – Consequential Constitutional  
Changes

## Section 1 – Summary and Recommendations

This report seeks approval to the formation of a Health and Wellbeing Board as required by Section 194 of the Health and Social Care Act 2012 and proposes associated constitutional revisions. The Act also transfers functions relating to public health to local authorities and requires the appointment of a Director of Public Health as a statutory Chief Officer.

### **Recommendations:**

That

1. a Health and Wellbeing Board be established as a committee of the Council with the terms of reference and procedure rules as set out in Appendices 1 and 2 and included in the revisions to Part 3A of the Terms of Reference before the Council ;
2. the transfer of public health functions to the Council from 1 April 2013 be noted and the constitutional changes to reflect this be agreed as set out in Appendix 3 and included in the revisions to Part 3A of the Terms of Reference before the Council;
3. a Health and Social Care Scrutiny Sub-Committee responsible for the

Council's health scrutiny functions continue to operate with the revised delegations as set out in Appendix 4 and included in the revisions to Part 3A of the Terms of Reference before the Council and including the power to make recommendations to Council on referrals to the Secretary of State under regulation 23(9) of the Local Authority (Public Health, Health and Wellbeing and Health Scrutiny) Regulations 2013;

4. the amendments at Appendix 5.be approved

## Section 2 – Report

### Background

The Health and Social Care Act 2012 and Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 contain provisions concerning the governance of Health and Wellbeing Boards (HWB) and changes in respect of the requirements for Health Scrutiny.

The HWB has a duty to encourage integrated commissioning across NHS, public health and local authority services in order to improve efficiency, secure better care and ultimately improve health and wellbeing outcomes for the local authority. It is responsible for the mutual obligation on the council and NHS commissioners to undertake a Joint Strategic Needs Assessment (JSNA) and produce a Joint Health and Wellbeing Strategy (JHWS) for the borough.

### Current situation

The Shadow Health and Wellbeing Board has been meeting regularly and has discussed the terms of reference and procedural notes for the Health and Wellbeing Board.

### Why a change is needed

This report proposes that the Council establish a Health and Wellbeing Board, the terms of reference and procedural rules for which have been developed in consultation with the Shadow Health and Wellbeing Board. The Health and Social Care Act 2012 gives the Board specific functions and further functions can be given to the boards in line with local circumstances. However, the HWB cannot be responsible for overview and scrutiny functions. The arrangements make a distinction between the role of health scrutiny and the role of the HWB.

The proposed board membership reflects the fact that political proportionality requirements have been lifted by Regulation 7 and it is left to local determination. The councillor members of the HWB are nominated by the Leader of the Council. Voting restrictions have been lifted by Regulation 6 Local Authority (Public Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 so that non-elected members of a health and wellbeing board can vote alongside nominated elected representatives on the Board unless the Council decides otherwise. The enclosed procedural rules

therefore apply to Members of the Council, Clinical Commissioning Group (CCG) representatives and the representative of the local Healthwatch organisation. The Council can appoint any other members it considers appropriate but once the HWB has been established the HWB may itself appoint additional members.

The NHS Commissioning Board is required to appoint a representative to join the HWB for the purposes of participating in its preparation of the JSNA or health and wellbeing strategy. It is therefore proposed that this representative be appointed as a member of the HWB for these discussions but without the power to vote.

All HWB members with the power to vote will be required to abide by the Members' Code of Conduct. The provisions in relation to Disclosable Pecuniary Interests (DPIs) will apply to both elected and non-elected members. The non-elected members of the HWB fall within the definition of 'co-opted members' contained in the Localism Act 2011, and as such they will be covered by the requirement to notify the Monitoring Officer of any DPIs.

Changes to the system of review and scrutiny of the health service have meant that the Council rather than a health scrutiny committee is responsible for health scrutiny functions. Under the new system the Council does, however, have flexibility in terms of discharging these functions and it is proposed that this be delegated to the Health and Social Care Scrutiny Sub-Committee. It should also be noted that health scrutiny functions cannot be delegated to an officer. The regulations in relation to health scrutiny make provision for local authorities to review and scrutinise matters relating to the planning, provision and operation of the health service in their area. There are new obligations on NHS bodies, relevant health service providers and local authorities around consultation on substantial developments or variations to services to aid transparency and local agreement on proposals.

The discharge of functions by HWBs are within the remit of scrutiny. It should be noted, however, that the core functions of HWB are not subject to call in as they are not executive functions.

The Director of Public Health will be required to prepare an annual report on the health of the people in the local authority's area which the Council must publish. The Act sets out a number of other statutory duties and responsibilities of the Director of Public Health.

The Council is providing its public health service jointly with the London Borough of Barnet.

## **Other options considered**

There is a statutory duty to establish a Health and Wellbeing Board as a committee of the Council under Section 194 of the Health and Social Care Act.

## **Implications of the Recommendation**

### **Legal comments**

There are no additional legal comments to those contained in the body of the report.

### **Financial Implications**

There are no financial implications arising directly from this report.

### **Risk Management Implications**

None in the context of this report

### **Equalities implications**

There are no equalities implications arising directly from this report.

### **Corporate Priorities**

Supporting and protecting people who are most in need  
United and involved communities

## **Section 3 - Statutory Officer Clearance**

Name: Steve Tingle	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 13 May 2013		
Name: Linda Cohen	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 13 May 2013		

## **Section 4 - Contact Details and Background Papers**

**Contact:** Elaine McEachron, Democratic and Electoral Services  
Manager

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### **Background Papers:**

Section 194 of the Health and Social Care Act 2012

## **HEALTH AND WELLBEING BOARD – Terms of Reference**

### **1. Accountability**

The Health and Wellbeing Board ('the Board') is set up in accordance with S102 of the Local Government Act 1972 and S194 of Health and Social Care Act 2012.

Members of the Board are required to abide by the Council's Code of Conduct.

### **2. Purpose of the Board**

2.1. The primary functions of the Board are as follows:

- to assess the needs of the local population and lead the statutory joint strategic needs assessment;
- to promote integration and partnership across areas, including through promoting joined up commissioning plans across NHS, social care and public health;
- to support joint commissioning and pooled arrangements where appropriate.
- the Board will cover both adult and children's issues.

2.2. The purpose of the Board is to improve health and wellbeing for the residents of Harrow and reduce inequalities in outcomes. The Board will hold partner agencies to account for delivering improvements to the provision of health, adult and children's services, social care and housing services.

### **3. Key Responsibilities**

3.1. The key responsibilities of the Health and Wellbeing Board shall be to:

- 3.1.1. agree health and wellbeing priorities for Harrow;
- 3.1.2. develop the joint strategic needs assessment;
- 3.1.3. develop a joint health and wellbeing strategy;
- 3.1.4. promote joint commissioning;
- 3.1.5. ensure that Harrow Council and the CCG commissioning plans have had sufficient regard to the Joint Health and Wellbeing Strategy;
- 3.1.6. have a role in agreeing the commissioning arrangements for local Healthwatch;
- 3.1.7. consider how to best use the totality of resources available for health and wellbeing;
- 3.1.8. oversee the quality of commissioned health services;
- 3.1.9. provide a forum for public accountability of NHS, public health, social care and other health and wellbeing services;

## Appendix 1

- 3.1.10. monitor the outcomes of the public health framework, social care framework and NHS framework introduced from April 2013);
- 3.1.11. authorise Harrow's Clinical Commissioning Group annual assessment;
- 3.1.12. produce a Pharmaceutical Needs Assessment and revise every three years (First PNA to be produced by 1<sup>st</sup> April 2015);
- 3.1.13. consider and make recommendations for response to NHS Consultations on proposed substantial developments /variations in health services that would affect the people of Harrow;
- 3.1.14. consider and make recommendations for response to consultations from local health Trusts, Department of Health, Care Quality Commission, and any organisation which provides health services outside the local authority's area to inhabitants within it; undertake additional responsibilities as delegated by the local authority or the Clinical Commissioning Group e.g. considering wider health determinants such as housing, or be the vehicle for lead commissioning of learning disabilities services;

## 4. Membership

4.1. The voting membership will be:

- Members of the Council nominated by the Leader of the Council (4)
- Chair of the Harrow Clinical Commissioning Group (vice chair)
- GP representative of the Harrow Clinical Commissioning Group
- A further representative of the Harrow Clinical Commissioning Group
- Chair of Healthwatch

4.2. The following Advisors will be non-voting members:

- Director of Public Health
- Chief Officer, Voluntary and Community Sector
- Senior Officer of Harrow Police
- Accountable Officer – CCG
- Chief Operating Officer – CCG
- Corporate Director Community, Health and Wellbeing
- Corporate Director Children's Services
- Director Adult Social Services

## Appendix 1

4.3 The voluntary and community sector representative shall be nominated by the Voluntary Community Sector Forum on an annual basis.

4.4 Members are appointed annually. Members of the Board shall each name a reserve in the event that they are unable to attend a meeting.

4.4 The chair of the Clinical Commissioning Group will serve as the vice chair of the Health and Wellbeing Board.

### **4.5 Participation of the NHS Commissioning Board**

4.5.1 The National Health Service Commissioning Board must appoint a representative to join Harrow's Health and Wellbeing Board for the purpose of participating in the Board's preparation of the JSNA and JHWS

4.5.2 The Health and Wellbeing Board can request the participation of the NHS Commissioning Board representative when the Health and Wellbeing Board is considering a matter that relates to the exercise or proposed exercise of the commissioning functions of the National Health Service Commissioning Board in relation to Harrow

### **4.6 Sub Groups**

4.6.1 The Board will review each year which sub groups are to be established based on the Board's priority areas,

4.6.2 The Sub Groups will ensure that the views of patients and service users are included.

4.6.3 Sub groups will be informal officer level groups.

4.6.4 Sub groups should provide a copy of their previous minutes or a list of issues for discussion at alternate Health and Wellbeing Board meetings to be considered by members.

## **Health and Wellbeing Board Procedure Rules**

### **1. Application of these Rules**

- 1.1 These rules apply to the Harrow Health and Wellbeing Board which was set up in accordance with S102 Local Government Act 1973 and S194 Health and Social Care Act 2012.

### **2. Appointment of Reserves**

Members of the Board shall each have a named Reserve who will have the authority to make decisions in the event that they are unable to attend a meeting. The Reserve will not be able to exercise any special powers or duties exercisable by the person for whom they are reserving.

#### **2.1 Reserving**

2.1.1 Reserve Members may attend meetings in that capacity only:

2.1.1.1 to take the place of an ordinary Member for whom they are a reserve;

2.1.1.2 where the ordinary Member will be absent for the whole of the meeting;

2.1.1.3 where the meeting notes at the start of the meeting at the item 'Reserves' that the Reserve Member is or will be attending as a reserve; and

2.1.1.4 if a Reserve Member whose intention to attend has been noted arrives after the commencement of the meeting, then that Reserve Member can only act as a Member from the start of the next item of business on the agenda after his/her arrival.

2.1.2 For the purposes of section 2.1.1.2 only, a meeting adjourned to another day shall be treated as a new meeting.

2.1.3 If a Reserve Member is in attendance at a meeting the ordinary member for whom they are substituting shall not be entitled to attend that meeting and take part as an ordinary member of that body.



### **3. Attendance of Members at Committees**

#### **3.1 No right to speak**

3.1.1 Any Member of the Council may attend meetings of the Board or its sub-committees and panels. Subject to 3.2 below, Councillors who are not ordinary members or attending Reserve Members of the Board or its sub-committees may not speak at meetings unless the Board or sub-committee agrees that the Member concerned may speak, or, the Member has been invited to the Board or sub-committee to speak.

#### **4.2 Motions referred to the Board or its sub-committees.**

4.2.1 A Member of the Council who has proposed a motion which has been referred to the Board or sub-committee, shall be given at least three clear working days notice of the meeting at which the motion will be considered, by the Monitoring Officer. If the Member attends the meeting but is not an ordinary Member or attending Reserve member of the Board or sub-committee, he or she shall have an opportunity to explain the motion to the Board or sub-committee.

### **4. Appointment of Sub-Committees**

The Board may establish sub-committees with such terms as they consider necessary for the proper discharge of the functions of the Board.

### **5. Chairing Board Meetings**

The Chair will be nominated by the Leader of the Council and appointed by Harrow Council and is currently the Portfolio Holder for Adult Social Care, Health and Wellbeing.

#### **5.1 Vice Chair of the Board**

The Vice-Chair will be appointed by the Clinical Commissioning Group.

#### **5.2 Absence of Chair at Meetings of the Board**

5.2.1 In the absence of the Chair, the Vice-Chair shall preside.

5.2.2 If after 15 minutes since the identified start time neither the Chair or Vice-Chair are present then the meeting shall elect a Chair for that

meeting as its first order of business after the noting of Reserve Members.

- 5.2.3 Where the Chair and Vice-Chair have both submitted apologies in advance of the meeting to the Monitoring Officer then the first order of business shall be to elect a Chair for the meeting after the noting of Reserve Members.

## **6. Business not on the Agenda**

6.1 Business not on the agenda may only be considered where:

- 6.1.1 the Access to Information Procedure Rules in Part 4G of the Constitution have been complied with; or
- 6.1.2 the Chairman makes an announcement that does not require a decision to be taken; or
- 6.1.3 a member of the Board or any Statutory Officer has requested that an item be placed on the agenda for the meeting at any time before the start of the meeting and the Chair agrees to the item being included on the grounds of urgency and the Board agreeing to consider that item of business. The grounds of urgency and the circumstances giving rise to the request must be recorded in the minutes of the meeting.
- 6.1.4 If there is a request to add an agenda item to an agenda after the statutory deadline for publication, that item may only be considered if the Chair agrees, subject to consultation with the Vice-Chair (if reasonably practicable), and the Board agreeing to consider that item of business, by virtue of the special circumstances set out either in the report or on the supplemental agenda, that the item should be considered as a matter of urgency and specified in the minutes of the meeting.

## **7. Time and Place of Meetings**

7.1 Meetings of the Board shall take place at the Harrow Civic Centre. Following consultation with the Vice-Chair and subject to compliance with the Local Government (Access to Information) Act 1985, the Chair shall have the power to alter the venue, day and time if he/she believes it to be appropriate for the conduct of the business of the Board.

## **8. Cancellation of Meetings**

- 8.1 The Chief Executive and or the Monitoring Officer may cancel a meeting of the Board either before or after the agenda for the meeting has been issued provided that reasons for the cancellation are given.

## **9. Calling of Special Meetings**

- 9.1 Those listed below may request the Monitoring Officer to call committee, sub-committee or panel meetings in addition to ordinary scheduled meetings:

9.1.1 the Board by resolution;

9.1.2 the Chair of the Board. The Chair must, before requesting the Monitoring Officer to call a special meeting, consult with the Vice-Chair;

9.1.3 at least one-third of the members of the Board, if they have signed a requisition presented to the Chair of the Board and he/she has refused to call a meeting or has failed to call a meeting within five clear working days of the presentation of the requisition;

## **10. Business**

- 10.1 Business at special meetings of the Board shall be restricted to:

10.1.1 the election of a person to preside if the Chair and Vice Chair are absent;

10.1.2 any item of business specified by the Board, Chair or Monitoring Officer or Statutory Officer when calling the meeting;

10.1.3 any deputations relating to items of business on the agenda which the Chair agrees to hear.

## **11. Notice of and Summons to Meetings**

- 11.1 The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules set out in Part 4G of the Constitution. At least five clear working days before a meeting, the Monitoring Officer will send an agenda front sheet by post to every member of the Board. The agenda will give the date, time and place of

the meeting and specify the business to be transacted and will be accompanied by all relevant reports.

## **Quorum**

- 11.2 The quorum of a meeting will be 50% of the voting membership. However at least one voting member from both the Council and the Clinical Commissioning Group must be in attendance. Should the quorum not be secured the meeting will not take place.
- 11.3 If, after 15 minutes from the advertised time of the start of the meeting, or such other longer period as the Chair may decide, a quorum is not present, the meeting will not take place. Nor will there be an informal meeting. The Chair may announce the time and date that the meeting will be convened.
- 11.4 During any meeting, if the Chair counts the number present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting of the Board.

## **12. Duration of Meetings**

### **12.1 Commencement and Closure**

Meetings of the Board will commence at 3.00 pm and close at 5.00 pm unless it resolves to extend the meeting beyond that time.

### **12.2 Determining Business Upon Closure**

12.3.1 At the time of closure the Chair will advise the Board that:

12.3.1.1 any speech commenced and then in progress shall be concluded;

12.3.1.2 the Chair will put any motion or recommendation then under consideration to the vote without further discussion;

12.3.1.3 any remaining business before the Board shall be put to the vote without discussion or further amendment.

## **13. Petitions**

### **13.1 Presentation of Petitions**

- 13.1.1 Petitions relating to a function of the Board shall be presented to the appropriate meeting of the Board. If the petitioners request that the petition be presented at a meeting of the Board this can be done in the following ways:
- 13.1.1.1 a representative of the petitioners may attend, at the time stated for the start of the Board meeting, and request to read the petition to the meeting;
  - 13.1.1.2 the petitioners may approach a Member of the Board and ask them to read the petition on their behalf;
  - 13.1.1.3 the petitioners may send the petition to the Monitoring Officer who will arrange for the Chair to read the petition.
- 13.1.2 The person presenting the petition may only read the terms of the petition and may not make any further comments. That person will have one minute to read the terms of the petition unless the Chair determines that this time limit should be extended or reduced.

### **Deputations**

- 13.2 The Board may receive a deputation on any matter appearing on the relevant agenda.
- 13.3 Requests for deputations must be in writing and supported by the signatures of at least 10 residents or representatives of local organisations or businesses in Harrow. The signatories must clearly state their names and addresses/qualifying business address. The request must explain why a deputation is required.
- 13.4 The request must be given to the Monitoring Officer at least two clear working days before the day of the meeting, although the Board can waive this requirement on the grounds of urgency.
- 13.5 The deputation to the meeting must consist of not more than four people. Those persons nominated to speak should also be signatories to the original written request to make a deputation. All may speak but the total length of the speeches from the deputation must not exceed 10 minutes.

- 13.6 The time allowed for questioning of the deputation by Members of the Board will be 10 minutes.
- 13.7 The deputation shall be heard immediately before the relevant item on the agenda. The Chair has complete discretion to move any items that are subject to a deputation on the agenda.
- 13.8 The Board shall receive no more than two deputations per meeting.
- 13.9 No deputation shall be received by the Board within 6 months after a deputation has appeared before it on the same or a similar subject.
- 13.10 Members of the Board and advisers (in that capacity) shall not be signatories to, lead or form part of any deputation.
- 13.11 Members of staff may lead or join deputations only in their capacity as local electors and on issues other than those affecting their employment with the Council or Clinical Commissioning Group.

#### **14. Public Questions**

##### **14.1 General**

- 14.1.1 Members of the public may question the Chair of the Board at meetings. Questioners will not be allowed to address the Board generally on a matter, they may only ask questions relating to matters within the terms of reference of the Board. Questions relating to individual cases and/or matters relating to staffing and conditions of service will not be permitted.

##### **14.2 Time Limit for Questions**

- 14.2.1 There will be a total limit of 15 minutes for the asking and answering of public questions. Once this time limit has been reached, no further questions can be asked but a questioner can complete a question or a supplemental question and the respondent can complete a reply. Unless the Chair permits otherwise, a reply to a question shall not exceed three minutes. If the Board member answering believes that a longer response is necessary an oral summary will be given and a full reply shall be completed in writing.

### **14.3 Order and Notice of Questions**

- 14.3.1 Questions will be asked in the order notice of them was received, except that the Chair may group together similar questions.
- 14.3.2 A question may only be asked if notice has been given in writing, by fax or by electronic mail to the Monitoring Officer at [publicquestions@harrow.gov.uk](mailto:publicquestions@harrow.gov.uk) no later than 3.00 pm two clear working days before the day of the meeting. Each question must be submitted by the questioner, identifying their name, address, and where appropriate email address, and state that the question is to the Chair of the Board.
- 14.3.3 Without prejudicing 14.3.2 above, where a report is circulated after the normal Board despatch by supplemental agenda a question may be asked, if notice has been given in writing, by fax or by electronic mail to the Monitoring Officer at [publicquestions@harrow.gov.uk](mailto:publicquestions@harrow.gov.uk) no later than 3.00 pm ONE clear working day before the day of the meeting. Each question must be emailed from the questioner's email address, give the name and address of the questioner and state that the question is to the Chair of the Board.
- 14.3.4 The Chair of the Board may arrange for another Member of the Board to answer on his or her behalf.
- 14.3.5 The Council takes no responsibility for questions which are sent and fail to reach the correct e-mail address, postal address or fax number.

### **14.4 Number of Questions**

- 14.4.1 At any one meeting no person may submit more than one question. A questioner will be allowed to ask a supplementary question directly relating to the content of the answer given to the written question. The Chair may reject a supplemental question if it falls within any of the categories in paragraph 14.5 below.

### **14.5 Scope of Questions**

- 14.5.1 The Monitoring Officer may reject a written question if it:

- 14.5.1.1 would risk defamation of an individual or is frivolous or offensive; or
- 14.5.1.2 does not relate to a matter to which the Council has powers or duties; or
- 14.5.1.3 does not relate to a matter which affects the London Borough of Harrow; or
- 14.5.1.4 would require the disclosure of confidential or exempt information; or
- 14.5.1.5 is substantially the same as a question which has been put at any meeting of the Board in the last six months.
- 14.5.1.6 is within the invalid categories referred to at 14.1 above.

No invalid questions will be circulated.

#### **14.6 Record of Public Questions**

- 14.6.1 The Monitoring Officer will make written questions available for public inspection and will immediately send a copy of the written question to the person to whom it is to be put. If a question is rejected, reasons for rejection will be given to the questioner by the Monitoring Officer.
- 14.6.2 Copies of all valid questions will be circulated to all Members of the Board and made available to the public at the meeting.

#### **14.7 Asking the Question at the Meeting**

- 14.7.1 The Chair will invite the questioner to put the question and will respond to the question unless another Member has been nominated to answer on his or her behalf.
- 14.7.2 If a questioner, who has submitted a written question, is unable to be present, they may ask the Chair to put the question on their behalf.
- 14.7.3 The Chair may either:



- 14.7.3.1 ask the question on the questioner's behalf; or
- 14.7.3.2 indicate that a written reply will be given; or
- 14.7.3.3 decide, in the absence of the questioner, that the question will not be dealt with.

#### **14.8 Written Answers**

- 14.8.1 Any written question, which cannot be dealt with during public question time because of lack of time, will be dealt with by written answer. A copy of any written answer shall be given to the Monitoring Officer who will send it to the questioner and all Members of the Board.

#### **14.9 Reference of a Question to another Body**

- 14.9.1 Unless the Chair decides otherwise, no discussion will take place on any question, but any Member may propose that a matter raised by a question be referred to the appropriate body of Harrow Council or the Clinical Commissioning Group. Such a proposal will be voted on without discussion.

### **15. Confidential Business**

- 15.1 All reports, other documents, information, discussions and proceedings of the Board which are marked Exempt under Schedule 12A of the Local Government Act 1972, or Confidential must be treated as such by all Members of the Board. Members of the public will not have access to these papers and discussions. Confidential or exempt items will be marked as such and the relevant part of Schedule 12A will be specified on the document. Confidential and/or exempt items will be discussed in 'Part II' of the Board meeting following a resolution to exclude the press and public.

### **16. Voting**

#### **16.1 Majority**

- 16.1.1 Any matter will be decided by a simple majority of those Members of the Board voting and seated in the room at the time the question was put. Voting shall be by a show of hands.

#### **16.2 Chair's Casting Vote**

- 16.2.1 If there is an equal number of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

### **16.3 Individual Recorded Vote and Explanation for Vote**

- 16.3.1 If, immediately before the vote is taken, any Member of the Board present at the meeting requests that his or her vote be recorded as voting for or against or not voting, it shall be so recorded in the minutes.

- 16.3.2 A recording of a vote or abstention in the minutes of the meeting shall be made without explanation save that in cases where it is necessary for the avoidance of ambiguity a brief note may be added at the Member's request explaining that Member of the Board's reason for voting or not voting.

### **16.4 Voting on Appointments**

- 16.4.1 If there are more than two people nominated for any position to be filled by the Board and of the votes given there is not a majority in favour of one person, the name of the person having the least numbers of votes shall be disregarded and a fresh vote shall be taken and so on until a majority of votes is given to one person.

## **17. Minutes**

### **17.1 Signing the Minutes of the Board**

- 17.1.1 The Chair will sign the minutes of the proceedings at the next meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only aspect of the minutes that may be discussed is their accuracy.

### **17.2 Minutes of Decisions of the Board**

- 17.2.1 Minutes of the Board shall be published on the Council's intranet and website.

## **18. Record of Attendance**

- 18.1 All Members of the Board present during the whole or part of a meeting must, before the conclusion of every meeting, sign their names in the attendance document provided.

## **19. Exclusion of the Public**

- 19.1 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4G of the Constitution of London Borough of Harrow or under Rule 24 of Part 4B of the Constitution (Disturbance by the Public).

## **20. Members' Conduct**

### **20.1 Precedence of Chair**

- 20.1.1 When the Chair speaks during a debate, any Member of the Board speaking at the time must stop speaking. The meeting must be silent.

### **20.2 Member not to be heard further**

- 20.2.1 If a Member of the Board persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further during the consideration of that item of business. If seconded, the motion will be voted on without discussion.

### **20.3 Member of the Board to leave the Meeting**

- 20.3.1 If the Member of the Board continues to behave improperly after such a motion is carried, the Chair may move that either the Member leave the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

### **20.4 General Disturbance**

- 20.4.1 If there is a general disturbance, making business impossible, the Chair may adjourn the meeting for as long as he/she thinks necessary.

## **21. Disturbance by the Public**

## **21.1 Removal of Member of the Public**

21.1.1 If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.

## **21.2 Clearance of Part of a Meeting Room**

21.2.1 If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

## **21.3 Adjournment**

21.3.1 Following an order by the Chair for one or more members of the public to leave the meeting room, if he/she deems it necessary in the interests of public safety and for the safety of Members and officers present, the Chair may adjourn the meeting for as long as he/she thinks necessary.

21.3.2 If it is considered expedient so to do, the Chair with the agreement of the Members of the Board present may adjourn the meeting for such duration as is considered appropriate.

## **22. Suspension and Amendment of Board Procedure Rules**

### **22.1 Suspension**

22.1.1 All of these Board Procedure Rules except the Rules on Reserving (2), Individual Recorded Vote and Explanation for Vote (16.3), Exclusion of the Public (21), Suspension and amendment of Board Procedure Rules (22), may be suspended by motion on notice or without notice if at least one half of all members of the Board are present and where such a motion is carried by a majority of those present. Suspension may be for one or more items of business during the course of the meeting when the suspension is agreed but may not extend beyond that meeting.

### **22.2 Amendment**

22.2.1 The Board Procedure Rules may only be changed by the Council.

## **23. Recording of Meetings**

23.1 Other than the Monitoring Officer or his/her nominated representative, no person may record or photograph or broadcast of any part of any meetings of the Board unless the person presiding at the meeting, in consultation with the other members of the Board who are present and entitled to vote at the meeting, gives express permission.

23.2 This Rule shall not apply to a written record of the discussion or decisions made at any meeting.

**24. Ruling of the Chair on Interpretation of these Rules**

24.1 The Chair's ruling on the interpretation or application of any of the Board Procedure Rules is final.

Appendix 3 – Delegations to the Director of Public Health

<b>Director of Public Health</b>	<b>Statutory Source of Function.</b>
1.Responsibility for the functions under S2B National Health Service Act – taking steps to improve Health.	Ss 2B and 73A National Health Service Act 2006.
2.Responsibility for the functions under S111 National Health Service Act – dental public health.	Ss 111 and 73A National Health Service Act 2006.
3.Responsibility for the functions under S249 National Health Service Act – joint working in respect of prison health.	Ss249 and 73A National Health Service Act 2006.
4. Responsibility for compliance with regulations made under s6C(1) or (3) National Health Service Act 2006 –requirement to undertake functions of the Secretary of State	Ss 6C(1) and (3) National Health Service Act 2006
5.Responsibility for the functions under S7A National Health Service Act – arrangements to undertake Secretary of State’s functions.	Ss 7A and 73A National Health Service Act 2006.
6.Responsibility for the exercise by the authority of its functions under Schedule 1 National Health Service Act 2006 - inspection of school pupils	Schedule 1 National Health Service Act 2006
7.Responsibility for any functions that relate to planning for or responding to emergencies involving a risk to public health.	S73A National Health Service Act 2006.
8.Responsibility for the functions under S325 Criminal Justice Act 2003 – arrangements for assessing risk of certain offenders.	S325 Criminal Justice Act 2003
9.To prepare an annual report on the health of the people in Harrow	S73B(5) National Health Service Act 2006
10.To be a member of the Health and Wellbeing Board	S194(2)(d) National Health Service Act

### Appendix 3 – Delegations to the Director of Public Health

<p>11. Responsibility for the exercise of all other Local Authority's public health functions specified in S73A(1) National Health Service Act 2006.</p>	<p>S73A National Health Service Act 2006.</p>
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## **HEALTH AND SOCIAL CARE SCRUTINY SUB-COMMITTEE**

The Health and Social Care Scrutiny Sub-Committee has the following powers and duties:

1. To be the key driver of the scrutiny function's health and social care scrutiny programme and maintain relationships with health and social care colleagues and partners in relation to shared stated priorities, in consultation with the Overview & Scrutiny Committee.

2. ~~To be responsible in accordance with Regulation 28 of the Local Authority (Public Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 for scrutiny of the Council's health functions other than the power under Regulation 23(9) to make referrals to the Secretary of State.~~

3. ~~To recommend to Council that a referral be made to the Secretary of State under Regulation 23(9) of the Local Authority (Public Health, Health and Wellbeing and Health Scrutiny) Regulations 2013.~~

4. To have specific responsibility for scrutiny of the following functions:

- Health and social care infrastructure and service
- ~~NHS England, Clinical Commissioning Groups (CCGs) and the Health and Wellbeing Board~~
- Public Health
- Other policy proposals which may have an impact on health, public health, social care and wellbeing
- Collaborative working with health agencies
- Commissioning and contracting health services

5. ~~To review the planning, provision and operation of Health services in Harrow and ensure compliance with Regulation 21(1) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 by inviting and taking account of information and reports from local health providers and other interested parties including the local HealthWatch;~~

6. ~~Where a referral is made through the local HealthWatch arrangements, to comply with Regulation 21(3) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 by ensuring that the referral is acknowledged within 20 days and that the referrer is informed of any action taken;~~

7. ~~Where appropriate, to consider and make recommendations for response to NHS consultations on proposed substantial developments/variations in health services that would affect the people of LB Harrow.~~

8. ~~Where appropriate, to consider and make recommendations for response to consultations from local health trusts, Department of Health, Care Quality Commission and any organisation which provides health services outside the local authority's area to inhabitants within it.~~

9. Continue to seek the development of relationship with ~~NHS England, CCGs, Health and Wellbeing Boards, Care Quality Commission, HealthWatch and the Local Medical Council.~~

~~(Note: members of the Executive or members of the Health and Wellbeing Board may not be members of the Health and Social Care Scrutiny Sub Committee. Any health matter requiring an urgent decision/comment before the next meeting of the Health & Social Care Sub-Committee will be considered by the Overview and Scrutiny Committee if that is sooner).~~

Deleted: <#>To be responsible for the discharge of the functions conferred by Section 21(f) of the Local Government Act 2000 of reviewing and scrutinising, in accordance with regulations under Section 7 of the Health and Social Care Act 2001, matters relating to the planning, provision and operation of health and social care services in Harrow.¶

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## PART 3A

# TERMS OF REFERENCE OF COUNCIL, THE CABINET, PORTFOLIO HOLDERS, COMMITTEES AND SUB-COMMITTEES OF THE COUNCIL, ADVISORY PANELS OF THE CABINET AND CONSULTATIVE FORUMS

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# CONSTITUTION OF THE COUNCIL OF THE LONDON BOROUGH OF HARROW

*The Summary and Explanation of the Constitution is also available  
as a separate leaflet for members of the public and is available at reception  
desks in the Civic Centre and at Public Libraries*

The Constitution has been prepared by officers in the Legal Services Department.  
Regular updates and replacement pages will be issued.  
Any comments on how the layout and contents can be improved should be sent to the  
Chief Executive.

**Please note:**

**The Constitution came into effect in May 2002, having been approved by the Council in February 2002.**

**The Council has made a number of changes to the Constitution since it was first approved. Minor corrections and amendments have also been made under the procedure of revising the Constitution in Article 15.05.**

**This document is available on the Harrow web-site at [www.harrow.gov.uk](http://www.harrow.gov.uk).**

# PART 1

# Summary and Explanation

# PART I

## SUMMARY AND EXPLANATION

### The Council's Constitution

The Council of the London Borough of Harrow has agreed a Constitution, which sets out how the Council operates, how decisions are made, and the procedures, which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to decide.

The Constitution is divided into sixteen articles, which set out the basic rules governing the Council's business. More detailed procedures, codes of practice and protocols are provided in later sections of the Constitution.

### What's in the Constitution?

Article 1 commits the Council:

***To deliver high quality, cost effective services through a partnership with all stakeholders and the community in general.  
To govern within a framework of fairness, openness, integrity and accountability.***

Article 3 explains the rights of citizens in relation to the Constitution. Article 2 and 4 to 16 describe how the key parts of the Council operate. These are:

- Members and the Council (Article 2).
- The full Council (Article 4).
- The Mayor (Article 5).
- Overview and Scrutiny Committee and Scrutiny sub-committees (Article 6).
- The Executive (Article 7).
- Regulatory and other Committees (Article 8).
- The Standards Committee (Article 9).
- Area Forums or Area Committees (Article 10).
- Joint arrangements (Article 11).
- Officers (Article 12).
- Decision making (Article 13).
- Finance, contracts and legal matters (Article 14).
- Review, revision and publication of the Constitution (Article 15).
- Interpretation and suspension of the Constitution (Article 16)

## How the Council operates

The Council is composed of 63 councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those that did not vote for them.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the Code of Conduct.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year.

The Council appoints the Overview and Scrutiny Committee, which has the role of checking the actions of the Executive in delivering services and helping the Executive to develop plans and policies. The Council is also responsible for the appointment of chief officers.

Members of the public can present petitions and ask questions at meetings of the Council.

## How decisions are made

The Executive is the part of the Council, which is responsible for most day to day decisions. The Executive is made up of the Leader and between two and nine other councillors appointed by the Council, this group is also known as the Cabinet.

When major decisions are to be discussed or made, they must be published in the Council's Forward Plan in so far as they can be anticipated. This Forward Plan will be regularly updated and is available to the public so they can monitor all the important decisions made by the Executive. When these major decisions are to be discussed at a meeting of the Executive (or Cabinet), these meetings will be open to the public to attend, except where personal or confidential matters are to be discussed.

The Executive has to make decisions, which are in line with the Council's overall policies and budget. If it wishes to make a decision, which is outside the budget or policy framework, this must be referred to the Council as a whole to decide (unless the matter is so urgent that special arrangements have to apply).

## Overview and scrutiny

The Council has an Overview and Scrutiny Committee, which in turn appoints Scrutiny sub-committees, which support the work of the Executive and the Council as a whole.

The Overview and Scrutiny Committee and Scrutiny sub-committees play a role in the formulation of the policies and strategies of the Council and in the setting of the budget. They can be consulted by the Executive or the Council on forthcoming decisions and the development of policy. They can hold inquiries and public debates, which can lead to reports influencing the Executive.

They can also monitor the decisions of the Executive and have a power to “call-in” decisions of the Executive where they have yet to be implemented. When an Executive decision is “called-in” the Executive can be asked to reconsider its decision. However, the Overview and Scrutiny Committee cannot overrule the Executive.

## Other Committees

There is also a Planning Committee, a Licensing and General Purposes Committee, [a Health and Wellbeing Board](#), a Governance, Audit and Risk Management Committee and a Standards Committee. More detail about the operation of these Committees can be found in Articles 8 and 9.

## The Harrow Partnership Initiative

The Council has adopted a comprehensive approach to consultation by encouraging community participation in decision-making. The Council consults with stakeholders, residents and service users on a range of activities.

The Partnership Initiative enables the involvement of a wide number of stakeholders from across sectors, in the planning of services and policy development, including the shaping of the Community Plan.

A Residents Panel consisting of over 1200 local people represents the Borough’s diverse community. The Panel helps to provide the Council with a clear picture of the effectiveness of local services.

## The Council’s Staff

The Council has people working for it (called “officers”) to give advice, implement decisions and manage the day to day delivery of services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Protocol included in Part 5 of the Constitution governs the relationship between officers and Members of the Council (Councillors).



## Citizens Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.

Where members of the public use specific council services, for example, as a parent of a school pupil or as a council tenant, they have additional rights. These rights are not covered specifically in the Constitution. The local Citizens Advice Bureau can advise on individuals' legal rights.

The Council welcomes participation by citizens in its work.

Further information on how to attend and participate at meetings, is available on the Authority's web site at: [www.harrow.gov.uk](http://www.harrow.gov.uk)

For further information on the Partnership Initiative, or if you would like to join the Harrow Residents Panel, please contact [Lindsay Coulson on 020 8424 1292](tel:02084241292) or e-mail [lindsay.coulson@harrow.gov.uk](mailto:lindsay.coulson@harrow.gov.uk)

\* For the purposes of this Constitution, the term Citizens includes (where appropriate) those people who study, work or have businesses in Harrow.

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Deleted: , a leaflet is available at the Civic Centre Reception or from libraries. Information is also available from the Reception Office for the Legal Services Department telephone 0208-424-1277, e-mail

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## Article 6

### Overview and Scrutiny Committee and Scrutiny sub-committees

#### Introduction

This Article describes the structure and method of operation of the committees that are to undertake the overview and scrutiny function.

#### 6.01 Terms of Reference

The Council will appoint an Overview and Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000.

The Overview and Scrutiny Committee will establish two Call-in Sub-Committees to consider Executive decisions taken but not implemented (See Rule 46 of the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution for information about the process for calling in decisions), together with a Performance & Finance Scrutiny Sub-Committee. The scope of the Committee and each sub-committee is set out in the right hand column of the table below.

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The guiding principle for the work of the Overview and Scrutiny Committee and Scrutiny Sub-Committees is that it should be consensual and positive. The emphasis of the work should be on making a proactive and positive contribution to the development of policy and the discharge of the Council's functions. This is best achieved by an inclusive process covering Members, partners, service users and employees.

Committee	Scope
Overview and Scrutiny	To oversee a more targeted and proportionate work programme that can help secure service improvement through in depth investigation of poor performance and the development of an effective strategy/policy framework for the council and partners.

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Sub-Committee	Scope
Call-In	To exercise the call-in powers and to refer any decision to Council that does not accord with the policy framework or budget.
Call-In (Education)	To exercise the call-in powers in relation to education matters and to refer any decision to Council that does not accord with the policy framework or budget.
Performance and Finance	To be the key driver of the scrutiny function's work programme and the body responsible for monitoring the performance of the council and partners in relation to their states priorities.

## 6.02 General Role

Within their terms of reference, the Overview and Scrutiny Committee and Scrutiny Sub-Committee other than the Call-In Sub-Committees will have the following roles:

- (i) the strategic development of policy – by supporting the Council and Executive in developing the policy framework and budget for the Council and working with partner organisations on issues that may be outside the remit of the Council;
- (ii) reviews of specific services – by making reports and/or recommendations to the full Council, Executive, Portfolio Holders and any Joint or Area Committees on any of their functions;
- (iii) the review of policy and decisions developed by others – by reviewing and/or scrutinising decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (iv) the review of issues of concern to local people – by considering any matter affecting the area or its inhabitants and monitoring and scrutinising the activities of others;
- (v) consideration of the Forward Plan and scrutiny prior to key decisions being made, as appropriate;

- (vi) scrutiny of decision making processes – by helping to draw up Protocols on how the Executive and Portfolio Holders should make decisions and then checking to see that these have been observed;
- (vii) where relevant and appropriate, to receive selected monitoring reports carried out internally and externally on services.

The Call-In Sub-Committees may call in Executive decisions made but not yet implemented.

### 6.03 Specific Functions

#### (a) Policy development and review

The Overview and Scrutiny Committee and Scrutiny Sub-Committee(s) may:

- (i) assist the Council, the Executive and Portfolio Holders in the development of the budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) consider mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question Members of the Executive, Advisory Panels and/or Committees and chief officers about their views on issues and proposals affecting the area; and
- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

#### (b) Scrutiny

The Overview and Scrutiny Committee and Scrutiny Sub-Committee(s) may:

- (i) review and scrutinise the decisions made by, and performance of, the Executive, Portfolio Holders and/or Committees and Council officers both in relation to individual decisions and over longer periods of time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;

- (iii) require the attendance of and question Members and chief officers about their decisions and performance, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- (v) where partnership working permits, review and scrutinise the performance of other public services in the area, by inviting reports from partners and requesting that they address the Overview and Scrutiny Committee and Scrutiny Sub-Committees about their activities and performance;
- (vi) question and gather evidence from any person (with their consent); and
- (vii) carry out the scrutiny of matters relating to the Health and Social Care including those matters delegated to the Health and Social Care Scrutiny Sub Committee within their terms of reference.

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**(c) Finance**

The Overview and Scrutiny Committee will exercise overall responsibility for any unallocated resources made available for scrutiny.

**(d) Annual Report**

The Overview and Scrutiny Committee will report annually to full Council on its workings and make recommendations for future work programmes and amend working methods, if appropriate.

**6.04 Proceedings of the Overview and Scrutiny Committee and Sub-Committees**

The Overview and Scrutiny Committee and Sub-Committees will conduct their business in accordance with the Committee Procedure Rules set out in Part 4 of this Constitution.

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# Article 8

## Regulatory and Other Committees

### Introduction

The Council will establish Committees to discharge certain functions which are reserved for the Council and which the Executive may not determine.

### 8.01 Regulatory and Other Committees

The Council will have the following Committees, Sub-Committees and panels:

- Governance, Audit and Risk Management Committee
- Licensing and General Purposes Committee
  - > Chief Officers' Employment Panel
  - > Early Retirement Sub-Committee
  - > Education Awards Appeals Panel
  - > Licensing Panel
  - > NNDR Discretionary Rate Relief Appeals Panel
  - > Pension Fund Investments Panel
  - > Personnel Appeals Panel
  - > Social Services Appeals Panel
- [Health and Well Being Board](#)
- Overview and Scrutiny Committee
  - > Call-In Sub-Committee
  - > Call-in Sub-Committee (Education)
  - > Performance & Finance Sub-Committee
  - > [Health and Social Care Scrutiny Sub Committee](#)
- Planning Committee
- Standards Committee
  - > Assessment Sub-Committee
  - > Hearing [Review](#) Sub-Committee
  - > Member Development Panel

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These Committees, sub-committees and panels will discharge the functions described in Part 3A of this Constitution.

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## 8.02 Membership of Committees of the Council

The Council shall determine the size and membership of the Committees, sub-committees and panels listed above and described in Part 3 of the Constitution and shall appoint Members in accordance with the rules on political proportionality contained in the Local Government and Housing Act 1989 [where this applies](#).

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The Council shall appoint voting co-opted members to the Overview and Scrutiny Committee and, where appropriate, to the Call-in sub-committees in the manner required by Regulations.

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The Council may appoint persons other than Councillors to be non-voting co-opted members to Committees.

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Reserve members may be appointed to Committees and Panels by the Council in the manner prescribed by the Procedural Rules in Part 4 of this Constitution.

## 8.03 Matters reserved for Council

The following matters within the terms of reference of the Licensing and General Purposes Committee must be determined by the full Council but may be the subject of a recommendation by the Committee:

- power to make, amend, revoke or re-enact by-laws;
- power to promote or oppose Parliamentary Bills;
- approval to the Statement of Accounts;
- confirming the appointment of the Head of Paid Service; and
- changing the name of the area, confirming the title of honorary alderman or freedom of the Borough.

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