

REPORT FOR: COUNCIL

Date of Meeting: 27 February 2014

Subject: **Recommended
Constitutional Changes**

Exempt: No

Enclosures: None

Section 1 – Summary & Recommendations

This report details proposed constitutional changes in respect of the operating arrangements for various matters, following consideration by the Constitution Review Working Group.

Recommendations:

That Council consider and decide whether to approve the proposed constitutional changes outlined in the report for adoption and addition to the Constitution where appropriate.

Section 2 – Report

1. The Constitution Review Working Group is an informal body established by agreement between the Group Leaders to receive proposals for alterations or updates to Authority's Constitution for formal submission to Council.
2. The following are proposed changes by the Constitution Review Working Group which comprises members from the three political groups represented on Council.

(A) Council Procedure Rules

- (i) Set out below are the Working Group's suggested insertions and amendments to the Council Procedure Rules for Council to consider.

18.4 Recorded Vote at Annual Council Tax Meeting

18.4.1 At any meeting of the Council where a decision is taken on the setting of council tax or budget, then the vote of each member present for or against or not voting shall be so recorded in the minutes.

25 Suspension And Amendment of Council Procedure Rules

25.1 Suspension

25.1.1 All of these Council Rules of Procedure except Rules 18.3, 19.2, 21, and 25 and 27.1 may be suspended by motion on notice, or without notice if at least one half of all Members of the Council are present, and where such 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.

RECOMMENDATION TO COUNCIL: That the insertions and amendments to the Council's Procedure Rules be agreed.

(B) Committee Procedure Rules

- (i) Set out below are the Working Group's suggested insertions and amendments to the Committee Procedure Rules for Council to consider.

22. Overview and Scrutiny Committee – Access to Documents

22.1 Members of Overview and Scrutiny Committee shall have the same rights of access to documents as non-executive Cabinet Members

22.2 Members of Overview and Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive, Executive (Cabinet) Committee, a Portfolio Holder, Advisory Panel or Consultative Forum and which contains material relating to:

- (a) any business transacted at a meeting of the Executive, Executive (Cabinet) Committee, Advisory Panel or Consultative Forum; or
- (b) any decision taken by a individual Member of the Executive;
- (c) any decision that has been made by an officer of the authority in accordance with Executive Arrangements.

32 Membership of the Overview and Scrutiny Committee

32.1 All Councillors except members of the Executive may be Members of the Overview and Scrutiny Committee and any Scrutiny sub-committees.

32.2 No member may be involved in scrutinising a decision in which he/she has been directly involved. **In particular, Cabinet Assistants / Advisers shall not sit on Scrutiny Committees that scrutinise their area of work.**

32.3 The Overview and Scrutiny Committee will comprise such members as the Council shall determine, including the Chairs of the Scrutiny sub-committees and will also include two voting parent governor representatives and two voting "church" representatives.

32.4 Members of the Overview and Scrutiny Committee will be appointed by Council in accordance with the rules on political proportionality.

32.5 The Chair of the Overview and Scrutiny Committee and Chairs of the Overview and Scrutiny Sub-Committees shall be selected from the members of the largest minority group. In the case of equality of size of minority groups then the Chairs should be appointed equally between each of the relevant groups.

RECOMMENDATION TO COUNCIL: That the insertions and amendments to the Council's Procedure Rules be agreed.

(C) Executive Procedure Rules

(i) Set out below are the Working Group's suggested insertions and amendments to the Executive Procedure Rules for Council to consider.

5.3 "The Leader shall appoint a maximum of 4 Non Executive members from the opposition parties as nominated by their group leaders as Non Executive members of cabinet, to speak but not vote on items before the cabinet in private and Public meetings, and have commensurate access to documents as full cabinet members except for draft cabinet reports".

13.2 The 4 Non Executive Members of the Cabinet may attend meetings of the Cabinet

20.2 The 4 Non Executive Members of Cabinet may speak on items before the Cabinet in Private or Public meetings.

23.2 The 4 Non Executive Members of Cabinet may not vote on items before any meeting of the Cabinet.

RECOMMENDATION TO COUNCIL: That the amendments to the Executive Procedure Rules be agreed.

(D) Financial Regulations

- (i) Set out below are the Working Group's suggested amendments to the Financial Regulations for Council to consider.

Land and Property Disposals

F8 Corporate Directors in consultation with the portfolio holder has delegated authority for General Land and Property disposals up to £0.250m. – The portfolio holder has delegated authority for anything above £0.250m but less than the Key Decision Threshold.

RECOMMENDATION TO COUNCIL: That the amendments to the Council's Financial Regulations be agreed.

(E) Code of Conduct

- (i) Set out below are the Working Group's suggested insertions to the Members' Code of Conduct for Council to consider.

7.3 No member may be involved in scrutinising a decision in which he/she has been directly involved. In particular, Cabinet Assistants/Advisers should not sit on Scrutiny Committees that scrutinise their area of work.

11.1 Dispensations

In cases where a member has a disclosable pecuniary interest, they may still be able to participate and vote at a meeting if they have obtained a dispensation from the Standards Committee in accordance with the provisions set out below:

There are 5 circumstances in respect of which a dispensation may be granted, namely:

- (a) That so many members of the decision-making body have disclosable pecuniary interests in a matter that it would 'impede the transaction of the business';
- (b) That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
- (c) That the authority considers that the dispensation is in the interests of person's living in the authority's area;
- (d) That without a dispensation, no member of the Cabinet would be able to participate in this matter, or

(e) That the authority considers that it is otherwise appropriate to grant a dispensation

11.2 You must make verbal declaration of the existence and nature of any dispensation granted to you at or before the consideration of the item of business or as soon as the interest to which the dispensation relates, becomes apparent. In the event of a blanket dispensation granted to all Members on a particular matter, this should be declared by the Chair at the commencement of the meeting.

RECOMMENDATION TO COUNCIL: That the insertions to the Councillors Code of Conduct be agreed.

(F) Early Retirement Sub-Committee, Pension Fund Committee and Chief Officers' Employment Panel

- (i) The Working Group has proposed the deletion of the Early Retirement Sub-Committee and for its functions to be absorbed by the Pension Fund Committee.
- (ii) The Working Group has also proposed that the function of approving any severance packages for Officers of £100,000 or over irrespective of the grade of the Officer be transferred from the Chief Officers' Employment Panel to the Pension Fund Committee
- (iii) The Terms of Reference for the Pension Fund Committee and the Chief Officers' Employment Panel are therefore proposed to be revised as follows:

PENSION FUND COMMITTEE

The Pension Fund Committee has the following powers and duties:

1. to exercise on behalf of the Council, all the powers and duties of the Council in relation to its functions as Administering Authority of the LB Harrow Pension Fund (the fund), save for those matters delegated to other Committees of the Council or to an Officer;
2. the determination of applications under the Local Government Superannuation Regulations and the Teachers' Superannuation Regulations;
3. to administer all matters concerning the Council's pension investments in accordance with the law and Council policy;
4. to establish a strategy for the disposition of the pension investment portfolio; and

5. to appoint and determine the investment managers' delegation of powers of management of the fund.
6. To determine cases that satisfy the Early Retirement provision under Regulation 26 of the Local Government Pension Scheme Regulations 1997 (as amended), and to exercise discretion under Regulations 8 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended, subject to the conditions now agreed in respect of all staff, excluding Chief Officers);
7. To apply the arrangements set out in (6) above to Chief Officers where the application has been recommended by the Chief Executive, either on the grounds of redundancy, or in the interests of the efficiency of the service, and where the application was instigated by the Chief Executive in consultation with the leaders of the political groups.
8. To approve any severance packages for Officers of £100,000 or over irrespective of the grade of Officer. The definition of severance package is in accordance with the DCLG supplementary statutory guidance 'Openness and accountability in local pay: Guidance under section 40 of the Localism Act 2011 issued in February 2013
9. To report back to Council for information purposes on all such approved severance packages

CHIEF OFFICERS' EMPLOYMENT PANEL

The Chief Officers' Employment Panel has the following powers and duties:

- (a) to make recommendations to Council on the appointment or dismissal of the Head of Paid Service;
- (b) to appoint and dismiss Chief Officers;
- (c) to approve remuneration packages of £100,000 or over for any Council post; and
- (d) to report back to Council for information purposes on all such approved remuneration packages.

(G) Portfolio Holders Assistants / Advisers

- (i) Set out below are the Working Group's suggested insertions and amendments to Article 7 for Council to consider.

7.13 Advisers and / or Assistants to Portfolio Holders

Non-Executive Councillors may be appointed as Advisers or Assistants to Portfolio Holders. These Advisers or Assistants may not exercise any of the powers of a Portfolio Holder nor act in the absence of the Portfolio Holder. Confirmation of the appointment of any Advisers or Assistant must be given by the Executive.

7.14 Non-Executive Cabinet Members

The Leader shall appoint a maximum of 4 Non Executive members from the opposition parties as nominated by their group leaders as Non Executive members of Cabinet. They may speak but not vote on items before the Cabinet in private and public meetings and have commensurate access to documents as full Cabinet members except for draft Cabinet reports.

(H) References to the Head of Paid Service

- (i) The Working Group has proposed that all references in the Constitution to the term 'Chief Executive' be replaced with the term 'Head of Paid Service'.

RECOMMENDATION TO COUNCIL: That all references in the Constitution to the term 'Chief Executive' be replaced with the term 'Head of Paid Service'

Section 3 – Legal, Risk and Financial Implications

There are no risks to the Council in approving changes to the Constitution as this serves as the framework for decision making processes for matters falling within its remit.

The legal implications are addressed within the report.

There are no financial implications associated with this report.

Section 4 - Contact Details and Background Papers

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Background Papers:

Council's Constitution