

REPORT FOR: **COUNCIL**

Date of Meeting:	13 November 2014
Subject:	Recommended Constitutional Changes
Responsible Officer:	Hugh Peart, Director of Legal and Governance Services
Exempt:	No
Wards affected:	N/A
Enclosures:	Appendix 1 – Procedure Rules to be deleted Appendix 2 – Protocol on reporting of meetings Appendix 3 - Amended Anti-Fraud Policy

Section 1 – Summary & Recommendations

This report details proposed constitutional changes.

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 majority of the following changes are proposed by the Constitution Review Working Group which comprises members from the three political groups

represented on Council. There are two other proposed changes – a revised anti-fraud policy and the designation of a statutory scrutiny officer.

(A) Recording of Meetings

- (i) Set out below are suggested amendments to the constitution as a result of new regulations which require councils to allow members of the public to report on public council meetings.
- (ii) The deletion of the procedure rules set out in Appendix 1 is proposed as they are now unlawful.
- (iii) The following addition to the Access to Information Rules is proposed. (Rule 12 is currently Rule 11 but would be renumbered under this proposal and relates to the exclusion of the press and public where there is confidential or exempt information):

'Reporting of meetings

4. The reporting of meetings is permitted except where the press and public are excluded under Rule 12 of these Rules. A protocol on reporting of meetings is at Part 50 of the Constitution. '

- (iv) A proposed protocol is set out at Appendix 2. This would be Part 50 of the constitution.

RECOMMENDATION TO COUNCIL: That the deletions in the various Procedure Rules, the amendment to the Access to Information Rules and the new Protocol on reporting of meetings be agreed.

(B) 3B Delegations to the Head of Paid Service, Corporate Directors and Statutory Officers

- (i) Set out below are the Working Group's suggested insertions and amendments to Part 3B for Council to consider. These reflect the requirements of the Solicitors Regulation Authority in respect of the Alternative Business Structure licence recently obtained.
- (ii) An amendment to paragraph 3 of the delegations to the Head of Paid Service is proposed as follows:

'To make any decision delegated to another officer **with the exception of any decision delegated to the Director of Legal and Governance in respect of the Alternative Business Structure licence obtained from the Solicitor's Regulatory Authority.**'

- (iii) A new paragraph 7 to the delegations to the Director of Legal and Governance Services is proposed as follows:

7. To take all decisions in relation to HB Public Law Limited, subject to the controls given to the Council by the shareholder agreement, and exercise day to day control of the Alternative Business Structure attached to the company.	Council and Executive
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RECOMMENDATION TO COUNCIL: That the changes to the individual delegations in part 3B of the Constitution be agreed.

(C) Chief Officers' Employment Panel and Pension Fund Committee

- (i) It is proposed that the following functions are removed from the Pension Fund Committee and added to the functions of the Chief Officers Employment Panel:

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- to approve any severance packages for Officers of £100,000 or over irrespective of the grade of Officer.
- to report back to Council for information purposes on all such approved severance packages.

RECOMMENDATION TO COUNCIL: That the changes to the terms of reference of the Pension Fund Committee and the Chief Officers Employment Panel be agreed.

(D) Anti-fraud policy

- (i) The Corporate Anti-Fraud Policy is at Part 5F of the Constitution. It has been amended to take into account some minor organisational and some legislative changes. The Bribery Act 2010 came into force on 1st July 2011 and this policy has been amended to reflect this. The amended Policy was considered and noted at the meeting of the Governance, Audit, Risk Management and Standards Committee on 22 July 2014. The amended policy is attached at Appendix 1.

RECOMMENDATION TO COUNCIL: That the amended anti-fraud policy be agreed.

(E) Appointment of statutory scrutiny officer

- (i) Under s.9FB of the Local Government Act 2000, a local authority must designate one of its officers as its 'scrutiny officer'. Under the Act, the officer has responsibilities for promoting the role of overview and scrutiny, providing support to members of the overview and scrutiny committee and for providing advice and support to members and officers in relation to the functions of the committee.
- (ii) This role has been held in the past by the Service Manager, Scrutiny but since the merging of the Policy and Scrutiny functions has been held by the Head of Policy. It is therefore proposed to make the following changes to Article 12 and Part 3B – Delegations to Officers, of the Constitution:

Article 12

(c) **Statutory Officers**

The Council will designate the following posts as shown:

Post	Designation
Head of Paid Service	Head of Paid Service
Director of Finance and Assurance	Chief Financial Officer (Section 151 Officer)
Corporate Director of Children's Services	Director of Children's Services
Director of Adult Social Services	Director of Adult Social Services
Director of Legal and Governance Services	Monitoring Officer
Head of Policy	Scrutiny Officer

Insertion of new 12.07

12.07 Functions of the Scrutiny Officer

Promotion of Overview and Scrutiny

- (a) The Scrutiny Officer will promote the role of the Overview and Scrutiny Committee and its sub-committees.

Support to the Overview and Scrutiny Committee

(b) The Scrutiny Officer will provide support to the Overview and Scrutiny committee and sub-committees and their members.

Support and guidance to members and officers

(c) The Scrutiny Officer will provide support and guidance to members and officers in relation to the functions of the Overview and Scrutiny Committee and its sub-committees.

Insertion to table showing functions of statutory officers in Part 3B – Delegations to Officers

Scrutiny Officer	Statutory Source of Functions
To promote the role of the Overview and Scrutiny Committee and its sub-committees, to provide support and guidance to members and officers of the Committee and its sub-committees and to provide support and guidance to members and officers in relation to the functions of the Committee and its sub-committees.	Section 9FB of the Local Government Act 2000.

RECOMMENDATION TO COUNCIL: That the changes to Article 12 and Part 3B of the Constitution be agreed.

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.

Ward Councillors notified:

NO

Section 4 - Contact Details and Background Papers

Contact: Jessica Farmer, Head of Legal Services

Tel: 020 8424 1889

E-mail: jessica.farmer@harrow.gov.uk

Background Papers:

Council's Constitution

Appendix 1 – Procedure rules concerning recording of meetings

Council Procedure Rules

26. Recording of Meetings

26.1 Other than the Monitoring Officer or his/her nominated representative, no person may use any mechanical or electronic means of recording or photographing or broadcasting of any part of any meeting of the Council, unless the person presiding at the meeting, in consultation with the other Councillors present at the meeting, gives express permission.

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

Committee Procedure Rules

Recording of Meetings

26.1 Other than the Monitoring Officer or his/her nominated representative, no person may use any mechanical or electronic means of recording or photographing or broadcasting of any part of any meetings of any committee, sub-committee or panel of the Council, unless the person presiding at the meeting, in consultation with the other members of the committee, sub-committee or panel of the Council who are present and entitled to vote at the meeting, gives express permission.

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

Health and Wellbeing Board Procedure Rules

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.

Executive Procedure Rules

27. Recording of Meetings

27.1 Other than the Monitoring Officer or his/her nominated representative, no person may use any mechanical or electronic means of recording or photographing or broadcasting of any part of any meeting of the Executive, or of an Advisory Panel, Consultative Forum, Sub-panel or Sub-forum unless the person presiding at the meeting, in consultation with the other Members of the Executive or Members of the Advisory Panel, Consultative Forum, Sub-panel or Sub-forum present at the meeting, gives express permission.

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

Appendix 2 – Proposed Protocol

Protocol for members of the public wishing to report on meetings of Harrow Council

1. Members of the public are entitled to report on public meetings of the Council, except for any part of the meeting where the public have been excluded under Rule 12 of the Access to Information Procedure Rules because confidential or exempt information is likely to be disclosed. In this context 'members of the public' includes members of the Council.
2. Reporting means:-
 - a. filming, photographing or making an audio recording of the proceedings of the meeting;
 - b. using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
 - c. reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.
3. Oral commentary by someone in the meeting room while the meeting is taking place is not permitted. This is to prevent the business of the meeting being disrupted.
4. Anyone wishing to take photographs or video record by means of a handheld camera or other device is asked to inform a Democratic Services officer before the meeting so that they can be seated appropriately to avoid disruption to other members of the public.
5. Members of the public are asked to remain seated throughout the meeting as standing up and walking around could distract from the business in hand. In addition there should be no disruptive behaviour e.g. excessive noise in recording, intrusive lighting and flash photography.
6. No recording is permitted when the press and public have been excluded under Rule 12 of the Access to Information Rules and any recording equipment should not be left in the room.
7. Democratic Services will ensure that agendas for, and signage at, meetings make it clear that filming / recording can take place. By attending the meeting, the public are consenting to being filmed / recorded. However, those recording meetings are requested to respect the privacy of members of the public in attendance by focusing on the councillors and officers taking part in the meeting.