

REPORT FOR: **COUNCIL**

Date of Meeting:	3 December 2015
Subject:	Changes to the Constitution arising from the Council's membership of the West London Economic Prosperity Board
Responsible Officer:	Hugh Peart – Director of Legal and Governance Services
Exempt:	No
Wards affected:	All
Enclosures:	Appendix 1 – Proposed amendments to Part 3A of the Constitution Appendix 2 – Proposed amendments to the Committee Procedure Rules

Section 1 – Summary and Recommendations

This report details proposed constitutional changes required in respect of the Council's membership of the West London Economic Prosperity Board. (WLEPB)

Recommendations:

Council is requested to agree the amendments to the constitution as set out in this report.

Section 2 – Report

1. Cabinet on 17th September 2015 resolved that the Council would enter into arrangements to form a joint committee under section 102 of the Local Government Act 1972 to discharge certain functions jointly. The other boroughs who are entering into these arrangements are Barnet, Brent, Hounslow and Ealing. The Joint Committee has been named The West London Economic Prosperity Board (WLEPB).
2. Cabinet also resolved that the matter be referred to the Monitoring Officer to allow consideration of any constitutional amendments necessary and refer these to Council as required.
3. The WLEPB has a set of functions and procedure rules which need to be inserted into the Harrow constitution. These rules require that decisions of the Joint Committee which relate to an executive function of a borough will be subject to the borough's call in arrangements.
4. The following are the proposed amendments to the constitution:
 - a. The Functions and Procedure rules of the West London Economic Prosperity Board to be added to Part 3A of the constitution as set out in Appendix 1.
 - b. Amendments to the Committee Procedure Rules as set out in Appendix 2 to make clear that the call-in process applies to decisions of a Joint Committee where executive functions have been delegated to it. This therefore covers the West London Economic Prosperity Board.

Financial Implications

There are no financial implications of this decision.

Risk Management Implications

Risk included on Directorate risk register? /No

Separate risk register in place? /No

There is no risk in amending the constitution in this way. There is a risk in not amending the constitution in that the call-in process would not explicitly cover executive decisions delegated to the WLEPB.

Equalities implications

Was an Equality Impact Assessment carried out? No

There are no equalities implications arising from these amendments.

Council Priorities

It is important that the Constitution is up to date and that residents and Members are able to call in decisions which may be relevant to the Council's priorities.

Section 3 - Statutory Officer Clearance

Name: Steve Tingle	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 23 November 2015		
Name: Jessica Farmer	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 20 November 2015		

Ward Councillors notified:	NO
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Section 4 - Contact Details and Background Papers

Contact:

Jessica Farmer, Head of Legal Services
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Background Papers: None.

If appropriate, does the report include the following considerations?

1.	Consultation	N/A
2.	Priorities	N/A

Addition to Schedule 3A of the constitution

JOINT ARRANGEMENTS

JOINT COMMITTEE OF THE BOROUGHES OF BARNET, BRENT, EALING, HARROW AND HOUNSLOW (KNOWN AS “WEST LONDON ECONOMIC PROSPERITY BOARD”)

Functions and Procedure Rules

1. Purpose of the Joint Committee

- 1.1 The London Boroughs of Barnet, Brent, Ealing, Harrow and Hounslow (“the Participating Boroughs”) have established the Joint Committee pursuant to powers under the Local Government Acts 1972 and 2000, and under the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.
- 1.2 The Joint Committee shall be known as ‘**WEST LONDON ECONOMIC PROSPERITY BOARD.**’
- 1.3 The Joint Committee’s role and purpose on behalf of the Participating Boroughs relates to ensuring appropriate, effective and formal governance is in place for the purposes of delivering the West London Vision for Growth and advancing Participating Boroughs’ aspirations for greater economic prosperity in West London, including promoting “the Economic Prosperity Agenda”, in partnership with employers, representatives from regional and central government, and education and skills providers.
- 1.4 The purpose of the Joint Committee will be collaboration and mutual co-operation and the fact that some functions will be discharged jointly by way of the Joint Committee does not prohibit any of the Participating Boroughs from promoting economic wellbeing in their own areas independently from the Joint Committee.
- 1.5 The Joint Committee is not a self-standing legal entity but is part of its constituent authorities. Any legal commitment entered into pursuant of a decision of the Joint Committee must be made by all of the Participating Boroughs.
- 1.6 These Procedure Rules govern the conduct of meetings of the Joint Committee.

1. Definitions

- 2.1 Any reference to “Access to Information legislation” shall mean Part V and VA of the Local Government Act 1972 (as amended) and, to the extent that they are applicable, to the Openness of Local Government Bodies Regulations 2014 (as amended) and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (as amended).

2.2 Any reference to “executive”, “executive arrangements”, “executive function” or “committee system” has the meaning given by Part 1A of the Local Government Act 2000.

3. Functions

3.1 The Joint Committee will discharge on behalf of the Participating Boroughs the functions listed below related to promoting economic prosperity in West London:

- 3.1.1 Making funding applications and/or bids to external bodies, in relation to economic prosperity for the benefit of the local government areas of the participating local authorities.
- 3.1.2 Allocating any such funding awards to appropriate projects for the benefit of the local government areas of the participating local authorities, including, where applicable, approving joint procurement.
- 3.1.3 Seeking to be the recipient of devolved powers and/or funding streams for the local government areas of the participating local authorities, which relate to the economic prosperity agenda.
- 3.1.4 Exercising any such powers and allocating any such funding.
- 3.1.5 Representing the participating local authorities in discussions and negotiations with regional bodies, national bodies and central government on matters relating to economic prosperity for the benefit of the local government areas of the participating authorities.
- 3.1.6 Representing the participating authorities in connection with the Greater London Authority, London Councils and the London Enterprise Panel, for the benefit of the local government areas of the participating authorities, in matters relating to the economic prosperity agenda.
- 3.1.7 Representing the participating local authorities in discussions and negotiations in relation to pan-London matters relating to economic prosperity.
- 3.1.8 Seeking to influence and align government investment in West London in order to boost economic growth within the local government areas of the participating authorities.
- 3.1.9 Agreeing and approving any additional governance structures as related to the Joint Committee, or any sub-committees formed by the Joint Committee.
- 3.1.10 Representing the participating local authorities in discussions and negotiations with the Secretary of State for Communities and Local Government to encourage legislative reform enabling Economic Prosperity Boards, as defined by the Local Democracy, Economic Development and Construction Act 2009 Act, to be established by groups of boroughs in London.
- 3.1.11 Inviting special representatives of stakeholders such as business associations, government agencies such as DWP or Jobcentre Plus, the further education sector, higher education sector, schools, voluntary sector, and health sector to take an interest in, and/or seek to influence, the business of the committee including by attending meetings and commenting on proposals and documents.

3.2 In relation to the Participating Boroughs which operate executive arrangements only executive functions of each borough may be exercised.

4. Membership

4.1 The membership will comprise of 5 members with each Participating Borough appointing one person to sit on the Joint Committee as a voting member.

4.2 Each Participating Borough will make a suitable appointment in accordance with its own constitutional requirements.

4.2.1 Where a Participating Borough operates executive arrangements, then the appointment of a voting member of the West London EPB will be by the leaders of the executive or by the executive. It is anticipated that, where practicable, the leader of each such executive will be appointed to the West London EPB.

4.2.2 Where a Participating Borough does not operate executive arrangements, the appointment of a voting member of the West London EPB will be in accordance with the Borough's own procedures. It is envisaged that this will usually be one of its senior councillors.

4.3 In all cases, the appointed person must be an elected member of the council of the appointing Participating Borough. Appointments will be made for a maximum period not extending beyond each member's remaining term of office as a councillor, and their membership of the Joint Committee will automatically cease if they cease to be an elected member of the appointing Participating Borough.

4.4 Members of the Joint Committee are governed by the provisions of their own Council's Codes and Protocols including the Code of Conduct for Members and the rules on Disclosable Pecuniary Interests.

4.5 Each Participating Borough will utilise existing mechanisms for substitution as laid down in their own Standing Orders. Continuity of attendance is encouraged.

4.6 Where a Participating Borough wishes to withdraw from membership of the Joint Committee this must be indicated in writing to each of the committee members. A six month notice period must be provided.

4.7 When a new borough wishes to become a Participating Borough then this may be achieved if agreed by a unanimous vote of all the existing Participating Boroughs.

5. Chair and Vice-Chair

5.1 The Chair of the Joint Committee will be appointed for 12 months, and will rotate amongst the Participating Boroughs.

5.2 Unless otherwise unanimously agreed by the Joint Committee, each Participating Borough's appointed person will serve as chair for 12 months at a time. Where the incumbent Chair ceases to be a member of the Joint Committee, the individual appointed by the relevant borough as a replacement will serve as Chair for the remainder of the 12 months as chair.

5.3 The Joint Committee will also appoint a Vice-Chair from within its membership on an annual basis to preside in the absence of the Chairman. This appointment will also rotate in a similar manner to the Chair.

5.4 At its first meeting, the Committee will draw up the rotas for Chair and Vice-Chair respectively.

5.5 Where neither the Chair nor Vice-Chair are in attendance, the Joint Committee will appoint a Chair to preside over the meeting.

5.6 In the event of any disagreement as the meaning or application of these Rules, the decision of the Chair shall be final.

6. Sub-Committees

6.1 The Joint Committee may establish sub-committees to undertake elements of its work if required.

7. Delegation to officers

7.1 The Joint Committee may delegate specific functions to officers of any of the Participating Boroughs.

7.2 Any such delegation may be subject to the requirement for the officer to consult with or obtain the prior agreement of an officer (or officers) of the other boroughs.

7.3 It may also be subject to the requirement for the officer with delegated authority to consult with the Chair of the Joint Committee and the Leaders of the one or more Participating Boroughs before exercising their delegated authority.

8. Administration

8.1 Organisational and clerking support for the Joint Committee, and accommodation for meetings, will be provided by the Participating Borough whose representative is Chair unless otherwise agreed by the Joint Committee. The costs of this will be reimbursed by contributions from the other Participating Boroughs as approved by the Joint Committee.

9. Financial matters

9.1 The Joint Committee will not have a pre-allocated budget.

9.2 When making a decision which has financial consequences, the Joint Committee will follow the relevant provisions of the Financial Procedure Rules of LB Ealing.

10. Agenda management

10.1 Subject to 10.2, all prospective items of business for the Joint Committee shall be agreed by a meeting of the Chief Executives of the Participating Boroughs or their representatives.

10.2 It will be the responsibility of each report author to ensure that the impacts on all Participating Boroughs are fairly and accurately represented in the report. They may do this either by consulting with the monitoring officer and chief finance officer of each Participating Borough or by some other appropriate method.

10.3 In pursuance of their statutory duties, the monitoring officer and/or the chief financial officer of any of the Participating Boroughs may include an item for consideration on the

agenda of a meeting of the Joint Committee, and, may require that an extraordinary meeting be called to consider such items.

10.4 Each Participating Borough operating executive arrangements will be responsible for considering whether it is necessary [in order to comply with Access to Information legislation regarding the publication of agendas including Forward Plan requirements] to treat prospective decisions as 'key- decisions' and/or have them included in the Forward Plan. Each Participating Borough operating a committee system will apply its local non statutory procedures.

11. Meetings

11.1 The Joint Committee will meet as required to fulfil its functions.

11.2 A programme of meetings at the start of each Municipal Year will be scheduled and included in the Calendar of Meetings for all Participating Boroughs.

11.3 The quorum for a meeting of the Joint Committee shall require at least 4 of the 5 appointed members (or their substitutes) to be present in order to transact the business as advertised on the agenda.

11.4 Access to meetings and papers of the Joint Committee by the Press and Public is subject to the Local Government Act 1972 and to the Openness of Local Government Bodies Regulations 2014. The Joint Committee will also have regard to the Local Authorities (Executive Arrangements) (Meetings and Access to information) (England) Regulations 2012, notwithstanding the fact that its provisions do not strictly apply to the Joint Committee for so long as the committee has any members who are not members of an executive of a Participating Borough.

12. Notice of meetings

12.1 On behalf of the Joint Committee, a clerk will give notice to the public of the time and place of any meeting in accordance with the Access to Information requirements.

12.2 At least five clear working days in advance of a meeting a clerk to the Joint Committee will publish the agenda via the website of clerk's authority and provide the documentation and website link to the Participating Boroughs to enable the information to be published on each Participating Borough's website. "Five Clear Days" does not include weekends or national holidays and excludes both the day of the meeting and the day on which the meeting is called.

12.3 The clerk to the Joint Committee will arrange for the copying and distribution of papers to all Members of the Committee.

13. Public participation

13.1 Unless considering information classified as 'exempt' or 'confidential' under Access to Information Legislation, all meetings of the Joint Committee shall be held in public.

13.2 Public representations and questions are permitted at meetings of the Joint Committee. Notification must be given in advance of the meeting indicating by 12 noon on the last working day before the meeting the matter to be raised and the agenda item to which it relates. Representatives will be provided with a maximum of 3 minutes to address the Joint Committee.

13.3 The maximum number of speakers allowed per agenda item is 6.

13.4 Where the number of public representations exceed the time / number allowed, a written response will be provided or the representation deferred to the next meeting of the Joint Committee if appropriate.

13.5 The Joint Committee may also invite special representatives of stakeholders such as business associations, government agencies such as DWP or Jobcentre Plus, the further education sector, voluntary sector, and health sector to take an interest in the business of the committee including by attending meetings and commenting on proposals and documents.

13.6 The Chair shall have discretion to regulate the behaviour of all individuals present at the meeting in the interests of the efficient conduct of the meeting.

14. Member participation

14.1 Any elected member of the council of any of the Participating Boroughs who is not a member of the Joint Committee may ask a question or address the Committee with the consent of the Chair.

15. Business to be transacted

15.1 Standing items for each meeting of the Joint Committee will include the following:

- Apologies for absence
- Declarations of Interest
- Minutes of the Last Meeting
- Provision for public participation
- Substantive items for consideration

15.2 The Chair may vary the order of business and take urgent items as specified in the Access to Information Requirements at his / her discretion. The Chair should inform the Members of the Joint Committee prior to allowing the consideration of urgent items.

15.3 An item of business may not be considered at a meeting unless:

- (i) A copy of the agenda included the item (or a copy of the item) is open to inspection by the public for at least five clear days before the meeting; or
- (ii) By reason of special circumstances which shall be specified in the minutes the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

15.4 "Special Circumstances" justifying an item being considered as a matter of urgency will relate to both why the decision could not be made at a meeting allowing the proper time for inspection by the public as well as why the item or report could not have been available for inspection for five clear days before the meeting.

16. Extraordinary meetings

16.1 Arrangements may be made following consultation with Chair of the Joint Committee to call an extraordinary meeting of the Joint Committee. The Chair should inform the appointed Members prior to taking a decision to convene an extraordinary meeting.

16.2 The business of an extraordinary meeting shall be only that specified on the agenda.

17. Cancellation of meetings

17.1 Meetings of the Joint Committee may, after consultation with the Chairman, be cancelled if there is insufficient business to transact or some other appropriate reason warranting cancellation. The date of meetings may be varied after consultation with the Chairman and appointed members of the Joint Committee in the event that it is necessary for the efficient transaction of business.

18. Rules of debate

18.1 The rules of debate in operation in the Chair's authority shall apply.

19. Request for determination of business

19.1 Any member of the Joint Committee may request at any time that:

- The Joint Committee move to vote upon the current item of consideration.
- The item be deferred to the next meeting.
- The item be referred back to a meeting of the Chief Executives of the Participating Boroughs for further consideration
- The meeting be adjourned.

19.2 The Joint Committee will then vote on the request.

20. Urgency procedure

20.1 Where the Chair (following consultation with the appointed Members of the Joint Committee) is of the view that an urgent decision is required in respect of any matter within the Joint Committee's functions and that decision would not reasonably require the calling of an Extraordinary Meeting of the Joint Committee to consider it and it cannot wait until the next Ordinary Meeting of the Joint Committee, then they may request in writing the Chief Executive of each Participating Borough (in line with pre-existing delegations in each Borough's Constitution) to take urgent action as is required within each of the constituent boroughs.

21. Voting

21.1 The Joint Committee's decision making will operate on the basis of mutual cooperation and consent and will take into account the views of the special representatives. It is expected that decisions will be taken on a consensual basis wherever reasonably possible.

21.2 Where a vote is required it will be on the basis of one vote per member and unless a recorded vote is requested, the Chair will take the vote by show of hands.

21.3 Any matter (save for a decision under Rule 4.7 above) shall be decided by a simple majority of those members voting and present. Where there is an equality of votes, the Chair of the meeting shall have a second and casting vote.

21.4 Any two members can request that a recorded vote be taken.

21.5 Where, immediately after a vote is taken at a meeting, if any Member so requests, there shall be recorded in the minutes of the proceedings of that meeting whether the person cast his / her vote for or against the matter or whether he/ she abstained from voting.

22. Minutes

22.1 At the next suitable meeting of the Joint Committee, the Chairman will move a motion that the minutes of the previous meeting be agreed as a correct record. The meeting may only consider the accuracy of the minutes and cannot change or vary decisions taken at a previous meeting as a matter arising out of the minutes.

22.2 Once agreed, the Chairman will sign them.

22.3 There will be no item for the approval of minutes of an ordinary Joint Committee meeting on the agenda of an extraordinary meeting.

23. Exclusion of Public and Press

23.1 Members of the public and press may only be excluded from a meeting of the Joint Committee either in accordance with the Access to Information requirements or in the event of disturbance.

23.2 A motion may be moved at any time for the exclusion of the public from the whole or any part of the proceedings. The motion shall specify by reference to Section 100(A) Local Government Act 1972 the reason for the exclusion in relation to each item of business for which it is proposed that the public be excluded. The public must be excluded from meetings whenever it is likely, in view of the nature of business to be transacted, or the nature of the proceedings that confidential information would be disclosed.

23.3 If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks is necessary.

23.4 Background papers will be published as part of the Joint Committee agenda and be made available to the public via the website of each authority.

24. Overview and Scrutiny

24.1 Decisions of the Joint Committee which relate to the executive functions of a Participating Borough will be subject to scrutiny and 'call -in' arrangements (or such other arrangements equivalent to call-in that any Participating Borough operating a committee system may have) as would apply locally to a decision made by that Participating Borough acting alone

24.2 No decision should be implemented until such time as the call-in period has expired across all of the Participating Boroughs.

24.3 Where a decision is called in, arrangements will be made at the earliest opportunity within the Participating Borough where the Call-In had taken place for it to be heard.

24.4 Any decision called in for scrutiny before it has been implemented shall not be implemented until such time as the call in procedures of the Participating Borough concerned have been concluded.

25. Access to minutes and papers after the meeting

25.1 On behalf of the Joint Committee, a clerk will make available copies of the following for six years after the meeting:

- (i) the minutes of the meeting and records of decisions taken, together with reasons, for all meetings of the Joint Committee, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information.
- (ii) the agenda for the meeting; and
- (iii) reports relating to items when the meeting was open to the public.

26. Amendment of these Rules

26.1 These Rules shall be agreed by the Joint Committee at its first meeting. Any amendments shall be made by the Joint Committee following consultation with the monitoring officers of the Participating Boroughs. Note that Rule 3 (Functions) may only be amended following a formal delegation from each of the Participating Boroughs.

27. Background Papers

27.1 Every report shall contain a list of those documents relating to the subject matter of the report which in the opinion of the author:

- (i) disclose any facts or matters on which the report or an important part of it is based;
- (ii) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information and in respect of reports to the Joint Committee, the advice of a political assistant.

27.2 Where a copy of a report for a meeting is made available for inspection by the public at the same time the clerk shall make available for inspection:

- (i) a copy of the list of background papers for the report; and
- (ii) at least one copy of each of the documents included in that list.

27.3 The Clerk will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

Proposed Amendments to the Committee Procedure Rules

45.1 Call-in is the process whereby a decision of the Executive, Portfolio Holder, Officer (where the latter is taking a Key Decision) or any Joint Committee (where it has taken a decision delegated to it by the Executive) taken but not implemented, may be examined by the Overview and Scrutiny Committee prior to implementation. They may recommend that the Executive reconsider the decision. For the avoidance of doubt a decision may only be subject to the call-in procedure once.

Referral to the Call-In Sub-Committees

45.6 Subject to 47.6.1 and 47.6.2 below, once a notice invoking the call-in procedure has been received the decision may not be implemented until the designated members (as defined in Appendix 1) have considered the guidance outlined in Appendix 1 and if required, the Call-In Sub-Committee has considered the decision. The Monitoring Officer shall in consultation with the Chair arrange a meeting of the Call-in sub-committee to be held within seven clear working days of the receipt of the request for call-in.

45.6.1 Where the Call-in sub-committee fails to meet within seven clear working days of the call-in request being received by the Monitoring Officer, the decision may be implemented on the day following twelve clear working days from the date the decision was published.

45.6.2 Where the Call-in sub-committee meets within seven clear working days of the receipt of notification of a call-in request, but fails to refer the matter back to the Executive, Portfolio Holder, officer (if a key decision) or Joint Committee, the decision may be implemented on the day following the Call-in sub-committee meeting.

45.6.3 No Member who has signed a call-in notice in accordance with Rule 45.4 may sit as a member of the Call-In Sub-Committee which considers that call-in notice.

Process for Consideration of Called-in Items at the Call-in Sub-Committee

45.7 The Call-in sub-committee will consider the decision and the reasons for call-in. The sub-committee may invite the Executive decision-taker and a representative of those calling in the decision to provide information at the meeting.

45.8 The sub-committee may come to one of the following conclusions:

45.8.1 that the challenge to the decision should be taken no further and the decision may be implemented;

45.8.2 that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget framework, and should therefore be referred to the Council. In such a case the Call-in subcommittee must set out the nature of its concerns for Council; or

45.8.3 that the matter should be referred back to the decision taker (i.e. the Portfolio Holder, Executive or Joint Committee, whichever took the decision) for reconsideration. In such a

case the Call-In sub-committee must set out the nature of its concerns for the decision taker/Executive.

Referral to Council under Rule 46.8.2

45.10 In the event that the Call-In sub-committee refers the matter to Council under Rule 46.8.2 above, the decision shall be discussed at the next ordinary meeting of Council, provided that the next scheduled meeting is within 20 clear working days of the decision of the Call-in sub-committee, which referred the matter.

45.11 If the next scheduled meeting of the Council is more than 20 clear working days after the decision of the sub-committee, the Mayor will decide, in consultation with the Leaders of the political parties, whether an extraordinary meeting of the Council is expedient.

45.12 The Council when considering the matter may conclude:

45.12.1 that the challenge to the decision should be taken no further and the decision may be implemented;

45.12.2 that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget and cannot therefore be implemented; or

45.12.3 that the matter should be referred back to the Executive, Portfolio Holder, officer or Joint Committee for reconsideration. In such a case the Council must set out its reasons for the referral; or

45.12.4 acknowledge that the decision is contrary to the policy framework, or contrary to or not wholly in accordance with the budget framework, but approve an amendment to the particular policy or budget to allow the decision to be implemented.