

# REPORT FOR: COUNCIL

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<b>Date of Meeting:</b>	22 September 2016
<b>Subject:</b>	Constitutional amendments
<b>Responsible Officer:</b>	Hugh Peart Monitoring Officer
<b>Exempt:</b>	No
<b>Wards affected:</b>	None
<b>Enclosures:</b>	Appendix 1 – existing and proposed new terms of reference for SACRE

## Section 1 – Summary and Recommendations

This report sets out proposals to change the terms of reference of the Standing Advisory Council on Religious Education (SACRE) and to make changes to the Committee Procedure Rules and the Budget and Policy Framework Rules. Council are also asked to note a change to the responsibilities of the Portfolio Holder for Environment, Crime and Community Safety and changes made by decision of the Monitoring Officer since the last meeting of Council.

### Recommendations:

Council is requested to:

1. Agree to replace the existing terms of reference and membership for the Standing Advisory Council on Religious Education (SACRE) with the proposed new terms of reference and membership set out in Appendix 1.
2. Agree changes to the Committee Procedure Rules, the Executive Procedure Rules, Article 7 and the Budget and Policy Framework Rules as set out in the report.
3. Note the addition to the responsibilities of the Portfolio Holder for Environment, Crime and Community Safety
4. Note changes to the constitution made by the Monitoring Officer since the last meeting of Council.

## Section 2 – Report

1. The Constitutional Review Working Group has considered the proposed changes to the Constitution as set out below and the attached appendix.

### **Changes to the terms of reference and membership of the Standing Advisory Council on Religious Education (SACRE)**

2. SACRE is a statutory body which the Council must set up under Section 390 of the Education Act 1996 ('the Act'). The Act sets out requirements as to membership so that certain groups are represented on SACRE.
3. The purposes of SACRE are also set out in s.391 of the Act.
4. Under s.392(7) of the Act SACRE may regulate its own proceedings subject to a statutory requirement that each representative group shall have a single vote in deciding any question to be decided by the body.
5. The current terms of reference for SACRE are set out in Part 3A of the constitution. However, they do not cover all the statutory purposes.
6. It is proposed to:
  - a. replace the terms of reference which those set out in Appendix A which reflect as closely as possible the statutory purposes of the body;
  - b. Delete Group E (co-opted members) as the legislation does not provide for such a group although the legislation allows SACRE to co-opt members. At present there are no such members;
  - c. Delete the reference to a Humanist representative under Group D. In practice, this representative has acted as part of Group A and SACRE believe that this is the most appropriate place for this representative. Although Humanism is not a religious denomination, the representation of this non-theistic belief on SACRE has made a valuable contribution to the work of this body over a number of years. As part of Group D this representative has had voting rights and will continue to do so in Group A;
  - d. make clear that the committee procedure rules do not apply to SACRE; and
  - e. Provide for any member who does not attend for three consecutive meetings of SACRE to cease to be a member, unless SACRE approves the reason for non-attendance.
7. SACRE has considered and approves of the proposals. It is intended that if the new terms of reference are approved by Council SACRE will draw up its own constitution which will include the terms of reference and also deal with matters such as election of chair and vice-chair and the quorum.
8. Although there are changes proposed to the provisions set down in the constitution in relation to membership, in practice this does not change the existing membership of SACRE.
9. The existing terms of reference and proposed terms of reference are set out in Appendix 1.

## **Proposed changes to the Committee Procedure Rules in relation to planning**

10. Rules 28 and 29 of the Committee Procedure Rules ('the Rules') are specific to the Planning Committee. Rule 29 contains a procedure on the rights of Applicants and Objectors to speak at Planning Committee.
11. Rule 29.1 restricts the right to applications for planning permission which are being recommended for grant and approval by the Chief Planning Officer and applications for prior approval of the siting and appearance of telecommunications development where the Chief Planning Officer is recommending that prior approval be not required OR that prior approval be required and granted.
12. A situation recently arose where an objector wanted to speak about the modification of a section 106 agreement. It appears that there is no good reason for the exclusion of this type of application and therefore it is proposed to amend Rule 29.1. It is also proposed to amend Rule 29.2 for clarification. The proposed changes are set out below:

### **'29. Information on the rights of Applicants and Objectors to speak in relation to Applications at the Planning Committee**

- 29.1 This procedure applies only to the following applications, which are to be determined by the Planning Committee:
  - 29.1.1 Applications for planning permission, which are being recommended for grant or approval by the Chief Planning Officer.
  - 29.1.2 Applications for prior approval of the siting and appearance of telecommunications development where the Chief Planning Officer is recommending that prior approval be not required OR that prior approval be required and granted.
  - 29.1.3 [Applications for the modification or discharge of section 106 agreement obligations](#)
- 29.2 Where the recommendation of the Chief Planning Officer is to refuse an application Applicants and Objectors have no right to speak.'

## **Proposed change to the Budget and Policy Framework Rules**

13. It has come to light that there is an inconsistency between Rule 7 of the Budget and Policy Framework Procedure Rules and the Financial Regulations. The latter allow additions in year to the Capital Programme of up to £500,000 provided certain conditions are met. This is not reflected in the Budget and Policy Framework Procedure Rules and it is therefore proposed to amend those Rules as set out below:

### **'7. In-year Changes to the Budget and Policy Framework**

No changes may be made to the budget or policy framework by the Executive, individual members of the Executive, or officers, or joint arrangements discharging Executive functions except those:-

- (i) which are necessary to ensure compliance with the law, ministerial direction or government guidance;
- (ii) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.
- (iii) permitted under B48 of the Financial Regulations (additions in year to the capital programme).

## **Article 7 and the Executive Procedure Rules**

- 14. Under Article 15 of the constitution, the Monitoring Officer, in consultation with the Head of Paid Service may make minor or administrative changes to the constitution.
- 15. Since the appointment of Councillor David Perry to Cabinet as Non-Executive Member and following a request from the Leader of the Council, the Monitoring Officer exercised that power and made changes to paragraphs 7.14 of Article 7 and paragraph 5.3 of the Executive Procedure Rules. The Constitutional Review Working Group further reviewed that wording and put forward further amendments. The proposed wording is set out below.

### Article 7, paragraph 7.14, titled 'Non-Executive Cabinet Members'

- 16. "The Leader may appoint a maximum of 4 Non-Executive Members of Cabinet from the Voluntary Sector and from elected Members. Non-Executive Members of Cabinet may speak but not vote on items before Cabinet in private and public meetings and have commensurate access to documents as full Cabinet Members except for draft Cabinet reports which will be restricted to Portfolio Holders and Non-Executive Members of the majority group".

### Paragraph 5.3 of the Executive Procedure Rules

- 17. "The Leader may appoint a maximum of 4 Non-Executive Members of Cabinet from the Voluntary Sector and from elected Members as nominated by their group leaders. Non-Executive Members of Cabinet may speak but not vote on items before Cabinet in private and public meetings and have commensurate access to documents as full Cabinet Members except for draft Cabinet reports which will be restricted to Portfolio Holders and Non-Executive Members of the majority group".

## **Changes by the Monitoring Officer under delegated powers**

### Terms of reference of the Portfolio Holder

- 18. A reference to *'in dealing with the unnecessary Tory government cuts to Harrow Council'* as set out under the terms of reference of the Portfolio Holder for Community, Culture and Resident Engagement' has been deleted on the basis that the Constitution is not to be politicised. This change has been made by the Monitoring Officer under Article 15 which allows the Monitoring Officer, in consultation with the Head of Paid Service, to make minor or administrative changes to the constitution

## Membership of the Health and Wellbeing Board

19. Under Part 3B of the constitution, the Head of Paid Service, Corporate Directors and Statutory Officers may be specifically authorised to take decisions on behalf of the Council in cases of urgency or in relation to minor matters where the urgent matter is of such a nature that it may be against the Council's interest to delay and where it is not practicable to obtain the approval of the Council. The officer must consult with the Leader of the Council and the leaders of the political groups or their nominees.
20. In accordance with this procedure the Monitoring Officer made a decision to amend the terms of reference of the Health and Wellbeing Board to increase the number of Members of the Council nominated by the Leader of the Council from 4 to 5. This decision allowed a Conservative member the opportunity to sit on the Board.

### **Addition to the responsibilities of the Portfolio Holder for Environment, Crime and Community Safety**

21. Council are asked to note that the Leader has added responsibility in relation to Fixed Penalty Notices for the Portfolio Holder for Environment, Crime and Community Safety as follows:
22. 'To oversee the development and introduction of "on the spot" fines for littering, fly-tipping, spitting and urinating in public.'

### **Legal comments**

23. The legal requirements in relation to the proposals in relation to SACRE are set out in the body of this report. There are no particular legal requirements in relation to the other items covered in this report.

### **Financial Implications**

24. The proposed change to the Budget & Policy Framework Rules will ensure that Rule 7 of the framework rules is consistent with the Financial Regulations in respect of in-year additions to the Capital Programme.

### **Risk Management Implications**

Risk included on Directorate risk register? No

Separate risk register in place? No

### **Equalities implications**

Was an Equality Impact Assessment carried out? No.

There are no equalities implications arising from this report.

### **Council Priorities**

An up to date and effective constitution is important in facilitating proper decision-making in the Council so that it can work together to make a difference for Harrow.

### Section 3 - Statutory Officer Clearance

Name: Dawn Calvert	<input checked="" type="checkbox"/>	Chief Financial Officer
Date: 13.09.16		
Name: Caroline Eccles	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 13.09.16		

<b>Ward Councillors notified:</b>	<b>NO</b>
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### Section 4 - Contact Details and Background Papers

**Contact:** Caroline Eccles, Senior Lawyer, Employment and Governance, tel: 0208 424 7580.

#### Background Papers:

Signed decision papers in relation to changes made to the constitution by decision of the Monitoring Officer.

If appropriate, does the report include the following considerations?

1.	Consultation	NO
2.	Priorities	YES

## APPENDIX 1

### EXISTING TERMS OF REFERENCE FOR STANDING ADVISORY COUNCIL FOR RELIGIOUS EDUCATION (SACRE)

#### STANDING ADVISORY COUNCIL FOR RELIGIOUS EDUCATION

1. To advise the Borough's Teachers and the Manager of the Library Service on the provisions of appropriate teaching resources in support of the Harrow agreed RE syllabus.
2. To assist teachers in RE by devising and making available to them schemes of work and teaching materials based upon the Harrow agreed syllabus.
3. To assist in identifying teachers' in-service needs and in conjunction with the Teachers' Centre and the Advisory and Inspection Service, to arrange appropriate courses for teachers.
4. To make recommendations to the Corporate Director, People on resources deemed desirable for implementing and reviewing the agreed syllabus and in furthering the effectiveness of religious education in Harrow Schools.
5. To call a Standing Conference for reviewing the agreed syllabus of Religious Education from time to time.
6. To approve exemptions from Statutory Regulations on Acts of Worship.

#### **Membership (Total 41 persons)**

- (1) Group A - Representatives of Christian and Other Religious Denominations (22)
- (2) Group B - Representatives of the Church of England (3)
- (3) Group C - Representatives of Teachers (6)
- (4) Group D - Representatives of the Local Education Authority (3 Councillors and a representative of the Harrow Humanist Association).
- (5) Group E - Co-opted Members (5)
- (6) Adviser to the Council nominated by the Corporate Director, People.

## **PROPOSED NEW TERMS OF REFERENCE FOR STANDING ADVISORY COUNCIL FOR RELIGIOUS EDUCATION (SACRE)**

SACRE is established under section 390 of the Education Act 1996. It is not a formal committee of the Council. The terms of reference and membership are set out below. Under section 392(7) of the Act, SACRE may regulate its own proceedings and hence the Council's committee procedure rules do not apply to SACRE.

### **Terms of reference**

- (1) As requested by the local authority or of its own volition, to advise the local authority on matters connected with:
  - a. religious worship in community schools or foundation schools which do not have a religious character, and
  - b. Religious education, in accordance with the Agreed Syllabus

The matters referred to above include, in particular, teaching methods, choice of materials and teacher training.
- (2) To deal with applications from schools for a determination on whether the statutory requirement for Christian collective worship should apply.
- (3) To determine the manner and form of applications under (2) above.
- (4) To convene from time to time an Agreed Syllabus Conference to review the agreed syllabus. The representative groups on SACRE, other than Group D, may at any time require a review of the agreed syllabus. Each of the three representative groups concerned shall have a single vote on the question of whether to require such a review.
- (5) To publish an annual report as to the exercise of their functions and any action taken by representative groups on the council under (4) above during the preceding year.

### **Membership**

Group A – Representatives of Christian and other religious denominations (22)

Group B – Representatives of the Church of England (3)

Group C – Representatives of Teachers (6)

Group D – Representatives of the Local Education Authority (3)

SACRE may also include co-opted members (that is, persons co-opted as members of SACRE by members of SACRE who have not themselves been so co-opted)

Any member who fails to attend three consecutive meetings of SACRE shall cease to be a member of the Council unless, at the third such meeting, SACRE approves the reason for non-attendance.

An adviser nominated by the Corporate Director, People Services shall also be invited to attend meetings of SACRE.