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**REPORT FOR: COUNCIL**

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**Date of Meeting:** 18 July 2019

**Subject:** Constitution update

**Responsible Officer:** Hugh Peart, Director of Legal and Governance Services

**Exempt:** No

**Wards affected:** All

**Enclosures:** Appendix 1 – Proposed amendments to terms of reference for the Chief Officers’ Employment Panel  
Appendix 2 – Proposed membership and terms of reference for an Independent Panel  
Appendix 3 – Proposed membership and terms of reference for an Appeals Committee  
Appendix 4 – Proposed amendments to the Officer Employment Procedure Rules  
Appendix 5 – Proposed amendments to Article 4 of the Constitution  
Appendix 6 – Proposed amendments to Article 13 of the Constitution  
Appendix 7 – Proposed amendments to the Members’ Code of Conduct  
Appendix 8 – Proposed amendments to Part 3B of the Constitution

## Section 1 – Summary and Recommendations

This report sets out proposed additions and amendments to the constitution in line with recent local and national developments.

### **Recommendations:**

Council is requested to:

- Agree the additions to the terms of reference for the Chief Officers' Employment Panel as set out in Appendix 1;
- Appoint an Independent Panel under s.102(4) of the Local Government Act 1972 with membership and terms of reference as set out in Appendix 2;
- Appoint an Appeals Committee with membership and terms of reference as set out in Appendix 3;
- Amend the functions of full council to include 'To confirm the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer, to impose a lesser sanction or to refer the matter back to the Chief Officers' Employment Panel'
- Remove the Statutory Chief Officers Disciplinary Panel from the constitution;
- Agree changes to the Officer Employment Rules as set out in Appendix 4;
- Instruct the Head of HR to:
  - draw up a disciplinary procedure to apply to the Head of Paid Service, Monitoring Officer and Chief Finance Officer taking into account the model procedure in the JNC for Chief Executives ('the JNC procedure') and the decisions of Council;
  - make any consequential changes necessary to other Council HR procedures and Employee Handbooks; and
- Delegate to the Monitoring Officer, following consultation with the Leader and the Leader of the Opposition, the power to:
  - suspend the Head of Paid Service in cases of emergency as defined in the JNC procedure; and
  - refer matters of discipline (as defined in the disciplinary procedure) in respect of the Head of Paid Service to the Chief Officers' Employment Panel;
- Delegate to the Head of Paid Service, following consultation with the Leader and the Leader of the Opposition, the power to:
  - suspend the Monitoring Officer or Chief Finance Officer in cases of emergency as defined in the JNC procedure; and
  - refer matters of discipline (as defined in the disciplinary procedure) in respect of the Monitoring Officer or Chief Finance Officer to the Chief Officers' Employment Panel;
- Agree amendments to Article 4 of the constitution as set out in Appendix 5;
- Agree amendments to Article 13 of the constitution as set out in Appendix 6;
- Subject to agreement by the Governance, Audit, Risk Management and Standards Committee on 16 July 2019 agree amendments to the

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| <p>Code of Conduct for Councillors as set out in Appendix 7; and</p> <ul style="list-style-type: none"><li>• Agree amendments to Part 3B of the constitution as set out in Appendix 8.</li></ul> |
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## **Section 2 – Report**

### **Arrangements for discipline and dismissal of statutory chief officers**

#### **Background**

The Local Authorities (Standing Orders) (England) Regulations 2001 ('the Regulations') set out provisions in relation to the disciplining and dismissal of the head of paid service, monitoring officer and chief finance officer ('the statutory chief officers').

The Regulations apply to matters which might lead to disciplinary action or dismissal in respect of statutory chief officers except for redundancy, the expiry of a fixed term contract or permanent ill health. They therefore cover dismissals for capability (performance or ill-health, other than permanent ill-health) or some other substantial reason including a breakdown in working relationships.

Amendments to the Regulations were made in 2015 and Council agreed at its meeting on 24 September 2015 to make changes to the constitution in line with the requirements of this revised legislation. This involved changes to the Chief Officers' Employment Panel and provision for a new Statutory Chief Officers Disciplinary Panel.

#### **Current situation**

The JNC for Chief Executives has now agreed a new model disciplinary procedure and the Council must therefore amend its constitution to reflect it.

#### **Disciplinary Procedure**

The model procedure requires an Investigating and Disciplinary Committee (IDC) to consider allegations in respect of statutory chief officers. It will have the power to suspend the officer and arrange for and consider an independent investigation. If it recommends dismissal this must be considered by an Independent Panel consisting of at least two independent persons (appointed under the Localism Act 2011 for the purpose of considering member complaints). It may also impose action short of dismissal.

Any recommendation to dismiss must (as now) be considered by full Council, which should have the power to accept the recommendation or impose a lesser or no sanction or refer it back to the Chief Officers' Employment Panel. It is proposed that the following be added to the functions of Full Council: 'To confirm the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer, to impose a lesser sanction or to refer the matter back to the Chief Officers' Employment Panel'. The model procedure provides that the Council meeting would also fulfil the appeal stage of the procedure.

It is proposed that the existing Chief Officers' Employment Panel should take on the functions of the IDC and therefore changes need to be made to its terms of reference (see Appendix 1).

The model procedure also requires that an Appeals Committee will consider any appeal against disciplinary action short of dismissal imposed by the IDC.

The Council needs to set up an Independent Panel and an Appeals Committee (see Appendices 2 and 3). The Statutory Chief Officers Disciplinary Committee is no longer required.

### **Suspension**

The procedure also advises that an elected member be able to suspend a statutory chief officer in an emergency - i.e. when their presence 'poses a serious risk to the health and safety of others or the resources, information or reputation of the authority'. Given that such a power cannot be held by a single member, it is recommended it be delegated to Monitoring Officer (in the case of the Head of Paid Service) and the Head of Paid Service (in the case of the Chief Finance Officer or Monitoring Officer), both following consultation with the Leader and the Leader of the Opposition. The proposed amendments are shown in Appendix 8.

### **Disciplinary procedure**

The Council does not have a separate procedure for statutory chief officers, instead referring to the procedures in the JNC Handbooks. However, it is recommended that a procedure is drawn up, in line with the JNC model procedure and the proposal above, to minimise confusion when dealing with any disciplinary situation in the future. Officers affected should be consulted.

### **Officer Employment Procedure Rules**

Proposed changes to the Officer Employment Procedure Rules are set out at Appendix 4. There are a number of deletions in relation to provisions which are not necessary to be contained in the constitution or are set out elsewhere in the constitution. There are also changes to reflect that objections to the appointment or dismissal of certain officers must be both material and well-founded which is a legislative requirement.

The Rules currently state that grievances relating to the Head of Paid Service are dealt with by the COEP as are grievance appeals by Chief Officers. This is in line with the relevant Employee Handbooks but is not reflected in the COEP terms of reference. It is proposed that these provisions are taken out of the Officer Employment Procedure Rules but that an appropriate addition is made to the COEP terms of reference (see Appendix 1).

### **Policy Framework**

Appendix 5 shows tracked changes to reflect more accurately the current legislation, including recent changes.

### **Principles of Decision Making**

An internal audit report recommended that the principles of decision-making contained in Article 13 should be reviewed and updated as necessary. Appendix 6 sets out the proposed changes which are additions to the existing principles.

### **Review of Local Government Ethical Standards**

GARMS met on 16 July 2019 to consider recommendations from the Review of Local Government Ethical Standards by the Committee on Standards in Public Life. This [report](#) set out various best practice recommendations in relation to standards matters, some of which require amendments to the Harrow's Councillor Code of Conduct. Subject to any views from the GARMS Committee, Council is asked to agree the changes at Appendix 7.

## **Role of the Corporate Strategic Board (CSB) and Building A Better Harrow Board (BBHB)**

An internal audit report on the Regeneration Programme recommended that the role of CSB and BBHB should be included in the constitution along with their terms of reference. It was also recommended that the CSB terms of reference be reviewed to make it more robust and to define categories of decisions/information to be reported to CSB. The terms of reference for CSB have now been reviewed and proposed amendments to the constitution to comply with the recommendations are at Appendix 8.

## **Legal Implications**

The requirements of the Local Authorities (Standing Orders) (England) Regulations 2001 are mainly set out in the body of the report.

Section 102(4) of the Local Government Act 1972 allows a local authority to appoint a committee to advise it. Members of such a committee do not need to be councillors.

## **Financial Implications**

There are no financial implications arising as a result of the changes outlined in this report.

## **Risk Management Implications**

Risk included on Directorate risk register? /No

Separate risk register in place? /No

## **Equalities implications / Public Sector Equality Duty**

Was an Equality Impact Assessment carried out? /No

The proposals are required either by national developments in the case of the provisions regarding chief officers or following consideration by the Governance, Audit, Risk Management and Standards Committee. It is not considered that there is any potential adverse impact on any particular groups.

## **Council Priorities**

Good governance arrangements ensure that the Council can concentrate on its priorities.

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

|                       |                                     |   |
|-----------------------|-------------------------------------|---|
| Name: Sharon Daniels  | <input checked="" type="checkbox"/> | on behalf of the<br>Chief Financial Officer |
| Date: 9 July 2019     |                                     |   |
| Name: Caroline Eccles | <input checked="" type="checkbox"/> | on behalf of the<br>Monitoring Officer      |
| Date: 9 July 2019     |                                     |   |

|                                   |           |
|-----------------------------------|-----------|
| <b>Ward Councillors notified:</b> | <b>NO</b> |
|-----------------------------------|-----------|

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

**Contact:** Caroline Eccles, Senior Lawyer and Assistant Team Leader, 0208 424 7580.

**Background Papers:**

JNC for Local Authority Chief Executives' Handbook  
JNC for Local Authority Chief Officers' Handbook  
Harrow Employee Handbook for Chief Executives  
Harrow Employee Handbook for Chief Officers

## Appendix 1

### Proposed amendments to terms of reference for the Chief Officers' Employment Panel

The Chief Officers' Employment Panel, which shall include one member of the Executive, has the following powers and duties:

- (a) to make recommendations to Council on the appointment of the Head of Paid Service;
- (b) to appoint and dismiss Chief Officers excluding the dismissal of the Chief Finance Officer and Monitoring Officer;
- (c) to make recommendations to Council on the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer in cases of redundancy, permanent ill health or the expiry of a fixed term contract;

~~(d)~~ ~~(e)~~ to consider whether to impose a disciplinary sanction on a chief officer;

~~(e)~~ to consider matters and take action as required or permitted under the disciplinary procedure for the Head of Paid Service, Chief Finance Officer and Monitoring Officer including:

- to suspend such an officer and to review such suspension
- to appoint an independent investigator, agree terms of remuneration and working methods
- to appoint external advisers
- to consider the report of an independent investigator and in relation to that report:
  - to hold a hearing if appropriate to consider the report
  - to impose action short of dismissal on an officer
  - to decide to take no further action
  - to recommend informal resolution or other appropriate procedures
  - to refer back to the independent investigator for further investigation and report
  - to propose dismissal of an officer to Council (in which case the matter should be referred to the Independent Panel prior to referral to Council)

~~(f)~~ to decide whether any objections made by a member of the Executive are material and well-founded and, if it decides that they are, to take appropriate action

~~(e)~~~~(g)~~ to consider grievances by the Head of Paid Service, and appeals by a chief officer against grievance decisions made by the Head of Paid Service in relation to a grievance made by the officer

~~(e)~~~~(h)~~ to approve remuneration packages of £100,000 or over for any Council post; and

- | ~~(f)~~(i) to report back to Council for information purposes on all such approved remuneration packages.
- | ~~(g)~~(i) to approve any severance packages for Officers of £100,000 or over irrespective of the grade of Officer.
- | ~~(h)~~(k) to report back to Council for information purposes on all such approved severance packages.



## Appendix 2

### Proposed membership and terms of reference for Independent Panel

The Independent Panel shall consist of 2 independent persons appointed under s.27(7) of the Localism Act 2011. The Panel has the following duties:

- (a) to consider reports recommending dismissal made by the Independent Investigator and the Chief Officers Employment Panel in accordance with the disciplinary procedure applying to the Head of Paid Service, Chief Finance Officer and Monitoring Officer.
- (b) to prepare a report to Council stating whether it agrees or disagrees with the recommendation to dismiss, including its reasons.

### Appendix 3

#### Proposed membership and terms of reference for Appeals Committee

The Appeals Committee is comprised of 5 members, including one member of the Executive, who are not also members of the Chief Officers Employment Panel. The Committee shall hear appeals by the Head of Paid Service, Chief Finance Officer and Monitoring Officer under the relevant disciplinary procedure against action taken against them short of dismissal.

The Committee may uphold the decision or reduce or remove the action.

~~H. Officer Employment Procedure Rules~~

| <del>Rule</del> |  | <del>Page No.</del> |
|-----------------|--|---------------------|
| <del>1.</del>   | <del>Recruitment and Employment</del>  | <del>4H-1</del>     |
| <del>2.</del>   | <del>Recruitment of Head of Paid Service and Chief Officers</del>                            | <del>4H-1</del>     |
| <del>3.</del>   | <del>Appointment of Head of Paid Service</del>   | <del>4H-2</del>     |
| <del>4.</del>   | <del>Appointment of Chief Officers</del>   | <del>4H-2</del>     |
| <del>5.</del>   | <del>Other Appointments</del>  | <del>4H-2</del>     |
| <del>6.</del>   | <del>Additional Requirements Relating to Recruitment and Appointment</del>                   | <del>4H-2</del>     |
| <del>7.</del>   | <del>Disciplinary Action</del>   | <del>4H-3</del>     |
| <del>8.</del>   | <del>Appeal to Members</del>   | <del>4H-5</del>     |
| <del>9.</del>   | <del>Dismissal</del>   | <del>4H-5</del>     |
| <del>10.</del>  | <del>Additional Requirements Relating to Suspension, Disciplinary Action and Dismissal</del> | <del>4H-5</del>     |
| <del>11.</del>  | <del>Interests of Officers in Contracts</del>  | <del>4H-5</del>     |

# OFFICER EMPLOYMENT PROCEDURE RULES

## 1. Recruitment and Employment

### (a) Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or the partner of such persons.
- (ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

### (b) Seeking support for appointment

- (i) No Councillor will seek support for any person for any appointment with the Council.
- (ii) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

## 2. Recruitment of Head of Paid Service, and Chief Officers

Where the Council proposes to appoint the Head of Paid Service or a chief officer or deputy chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

Where a committee or sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment of the Head of Paid Service, and Chief Officers, at least one member of the Executive must be a Member of that Committee or sub-committee

## 3. Appointment of Head of Paid Service

- 31 The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Chief Officers' Employment Panel of the Licensing and General Purposes Committee. ~~The Chief Officers' Employment Panel must include at least one member of the Executive.~~
- 32 The full Council may only approve the appointment of the Head of Paid Service where no material and well-founded objection has been made by any Member of the Executive.

#### 4. Appointment of chief officers

- (a) The Chief Officers' Employment Panel will appoint chief officers. That panel must include at least one member of the Executive.
- (b) An offer of employment as a chief officer shall only be made where no material and well-founded objection has been made by any member of the Executive.

#### 5. Other appointments

- (a) **Officers below chief officer** Appointment of officers below chief officer (other than assistants to a political group) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.
- (b) Assistants to political groups.

A political assistant may be appointed to a post which:

- Is made for the purpose of providing assistance to Council Members of a political group in their role as members of the authority;
- Is made at or below the maximum salary prescribed in the relevant Regulations in force at the time;
- Is for a term fixed by reference to the relevant regulations in force at the time;
- Is one of no more than three posts the Council have decided to create for the purposes of section 9 of the Local Government and Housing Act;
- Is at the selection of the political group to whom the post has been appointed."

~~(f) — In the absence of any grievance procedure set out in the Joint Negotiating Committee for Chief Executives of Local Authorities Conditions of Service any grievance relating to the Head of Paid~~

~~Service will comply with the requirements of the Grievance Procedure set out in the Harrow Scheme for Pay and Conditions.~~

~~**(B) — Suspension — Statutory Chief Officers**~~

~~**(C) —**~~

~~The Head of Paid Service may suspend the Monitoring Officer or Chief Finance Officer whilst an independent investigation takes place into alleged misconduct. That suspension will be on full pay~~

~~and the investigation should last no longer than two months. The investigation will follow the Local Authorities (Standing Orders) (England) Regulations 2001 and the Model Procedure set out in the Joint Negotiating Committee for Chief Officers of Local Authorities Conditions of Service.~~

~~**(D) — Grievance — Statutory Chief Officers**~~

~~(i) — Any grievance relating to the Statutory Chief Officers will be considered by the Head of Paid Service. If the Statutory Chief Officer remains dissatisfied the matter shall be referred to the Chief Officers' Employment Panel. The decision of the Panel shall be final.~~

~~(ii) — In the absence of any grievance procedure set out in the Joint Negotiating Committee for Chief Officers of Local Authorities Conditions of Service any grievance relating to the Statutory Chief Officers will comply with the requirements of the Grievance Procedure set out in the Harrow Scheme for Pay and Conditions.~~

~~**7.1 — Disciplinary Action — Chief Officers**~~

~~(A) — Disciplinary action against any other Chief Officer will follow the Model Disciplinary Procedure (as modified locally) set out in the Joint Negotiating Committee for Chief Officers of Local Authorities Conditions of Service.~~

~~**(B) — Suspension**~~

~~The Head of Paid Service may suspend a Chief Officer whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and for no longer than two months, and will follow the Model Procedure (as modified locally) set out in the Joint Negotiating Committee for Chief Officers of Local Authorities Conditions of Service.~~

~~**(C) — Grievance — Chief Officers**~~

~~(i) — Any grievance relating to Chief Officers will be considered by the Head of Paid Service. If the Chief Officer is dissatisfied with the~~

~~response the matter will be referred to the Chief Officers' Employment Panel. The decision of the Panel shall be final.~~

~~(i) In the absence of any grievance procedure set out in the Joint Negotiating Committee for Chief Officers of Local Authorities Conditions of Service any grievance relating to the Chief Officers~~

~~will comply with the requirements of the Grievance Procedure set out in the Harrow Scheme for Pay and Conditions.~~

## ~~6. Appeal to Members~~

~~Councillors will not be involved in the disciplinary action against any officer below chief officer except to allow a right of appeal to Members in respect of disciplinary action taken under the Council's Disciplinary Procedure.~~

### ~~7.6. Dismissal~~

~~Where a Committee or sub-committee of the authority is discharging on behalf of the authority, the function of the dismissal of a chief officer, at least one Member of the Executive must be a Member of that Committee or sub-committee.~~

The dismissal of the Head of Paid Service, or a chief officer may only be confirmed where no material and well founded objection has been made by any Member of the Executive.

The dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer requires the approval of full Council before a notice of dismissal can be given.

## ~~8. Additional Requirements relating to Suspension, Disciplinary Action and Dismissal~~

~~Subject to the requirements of Rules 7, 8 and 9, relating to the suspension, disciplinary action and dismissal of officers, the person or body taking such action shall comply with the requirements of the **Disciplinary Procedure** set out in the Harrow Scheme for Pay and Conditions.~~

## ~~9. Interests of Officers in Contracts~~

~~An officer must give notice of any pecuniary interest in a contract entered into or proposed to be entered into by the authority. That notice must be given in writing to the Head of Paid Service, who shall record the information in a book to be kept for that purpose.~~

## Article 4

## The Full Council

### Introduction

This Article defines the functions that are reserved for decision by the full Council.

The Council is responsible for approving the policy framework and the annual revenue and capital budget. The Council also retains responsibility for (i) regulatory functions (which include planning, licensing and health and safety at work); (ii) certain constitutional and quasi-legislative functions (primarily the conduct of elections and making of by-laws) and (iii) most of the local choice functions which the Council is free to decide whether they are the responsibility of full Council or the Executive. The Council also has a role in holding the Executive to account.

### 4.1 Meanings

#### (a) Policy Framework

The policy framework means the following plans and strategies:

- (i) those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000
  - Community Safety Plan
  - Gambling Policy
  - Local Implementation Plan
  - Plans and strategies which together comprise the Development Plan
  - Youth Justice Plan
- (ii) Further Plans which the Council considers should be subject to Council approval:
  - Council's Corporate Plan
  - Corporate Equalities Objectives
  - Licensing Authority Policy Statement



- Corporate Parenting Strategy

Proposed amendments to Article 13

**13.1 Principles of decision-making**

All decisions of the Council will be made in accordance with the following principles:

- compliance with the code of conduct in relation to interests, bias and predetermination
- proportionality (i.e. the action must be proportionate to the desired outcome);
- rationality
- taking into account relevant considerations including risk, cost and government guidance
- evidence-based
- procedurally correct
- proper purpose
- legal compliance
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- consideration of the public sector equality duty and the Council's own Equality of Opportunity Policy
- a presumption in favour of openness;
- clarity of aims and desired outcomes;
- a recording of options considered and rejected;
- a recording of reasons for decisions

Proposed amendments to Code of Conduct for Councillors (Part 1)

## **A. CODE OF CONDUCT FOR COUNCILLORS**

### **Background**

The Localism Act 2011 requires the Harrow Council to promote and maintain high standards of conduct by Members and Co-opted Members of the Council. It also requires the Council to adopt a code of the conduct expected of such Members when acting in that capacity.

This Code has been prepared and adopted by Harrow Council

The Council having adopted this Code will, from time to time, revise and replace it as is appropriate but will publicise such changes through its website and otherwise for the information of people living in its area.

## **PART 1**

### **GENERAL PROVISIONS**

#### **Introduction and interpretation**

- 1.1 This Code defines the standards of conduct, which will be required of you and in your relationships with the Council and its Officers. It has been created to embrace the 10 general principles of conduct which are set out in Appendix 1.
- 1.2 The Code represents the standard against which the public, fellow Councillors, and the Authority's Standards Committee will judge your conduct. A breach of the Code may also constitute a criminal offence.
- 1.3 You should familiarise yourself with the requirements of this Code. You should regularly review your personal circumstances, particularly when those circumstances change. If in any doubt, you should seek advice from the Authority's Monitoring Officer.
- 1.4
  - (1) This Code applies to you as a member of the Council.
  - (1) You should read this Code together with the general principles set out in Appendix 1.
  - (2) It is your responsibility to comply with the provisions of this Code.
  - (3) In this Code –
    - (a) "the Act" means the Localism Act 2011;

- (b) “body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
- (c) “Co-opted member” means any person who is not a member of the Council but who:
- (i) Is a member of any committee or sub-committee of the council, or
  - (ii) Is a member of and represents the council on any joint committee or joint sub-committee of the Council, or
  - (iii) Is a non-executive member of Cabinet;
- (d) “director” includes a member of the committee of management of an industrial and provident society;
- (e) “land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
- (f) “M” means a member of a relevant authority;
- (g) “meeting” means any meeting of -
- (i) the Council ;
  - (ii) the Executive of the Council ;
  - (i) any of the Council’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;
  - (ii) in taking a decision as a Ward Councillor or as a Member of the Executive.
  - (v) at any briefing by officers; and
  - (vi) at any site visit to do with business of the authority
- (h) “member” includes a Co-opted member and an Appointed Member;
- (i) “relevant authority” means the authority of which M is a member;
- (j) “relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of paragraphs 9.2 (a) or 12.1 of this Code.
- (k) “relevant person” means M or any other person referred to in paragraph 8.1 (b).
- (l) “securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services

and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

(m) "subject to a pending notification" means a notification made of a disclosable pecuniary interest to the Monitoring Officer which has not yet been entered in the Register of Interests.

## **Scope**

2. (1) You must comply with this Code whenever you are acting in your capacity as a Member of the Council.

## **General obligations**

3. (1) You must treat others with respect.

~~(2)~~ You must comply with any formal investigation under this Code of conduct

~~(2)~~(3) You must not-

(a) do anything which may cause the Council to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006

(b) bully or harass<sup>1</sup> any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a Member (including yourself) has failed to comply with the Council's code of conduct; ~~or~~

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council; or

(e) make trivial or malicious allegations under this Code of conduct.

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<sup>1</sup> Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone.

Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.

Examples include:

Verbal: remarks about appearance, derogatory or lewd comments, innuendoes, persistent name calling, statements which are suggestive, unwelcome, abusive and offensive.

Behaviour: that denigrates or ridicules; intimidation or physical abuse; making threats; attempts to stir up hatred against an individual or group

~~(3)~~(4) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

4. You must not -

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where -
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is -
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

6.1 You:-

- (a) must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of the Council -
  - (i) act in accordance with the Council's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

6.2 You may have dealings with the Council on a personal level, for instance as a council tax payer, as a tenant, or as an applicant for a grant or a planning permission. You should never seek or accept preferential treatment in those dealings because of your position as a Member. You should also avoid placing yourself in a position that could lead the public to think that you are receiving

preferential treatment. Likewise, you should never use your position as a Member to seek preferential treatment for friends or relatives, or any firm or body with which you are personally connected.

6.3 You should always make sure that any facilities (such as transport, stationery, or secretarial services) provided by the Council for your use in your duties as a Councillor or a committee member or member of the Executive are used strictly for those duties and for no other purpose.

7.1 (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by –

- (a) the Council's Chief Finance Officer; or
- (b) the Council's Monitoring Officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

7.2 When reaching decisions you should -

- (a) not act or cause the Council to act unlawfully, in such a manner as would give rise to a finding of maladministration, in breach of any undertaking to the Court, or for the advantage of any particular person or interest rather than in the public interest; and
- (b) take into account all material information of which you are aware and then take the decision on its merits and in the public interest

7.3 No member may be involved in scrutinising a decision in which he/she has been directly involved. In particular, Portfolio Holder Assistants should not participate in or vote on the scrutiny of matters within their identified remit, as approved by Cabinet.

Proposed amendments to Part 3B of the Constitution

**3B Delegations to the Head of Paid Service Corporate Directors and Statutory Officers**

Extract 1 – addition of references to roles of CSB and BBHB

This Scheme sets out those delegations made to the Head of Paid Service and Corporate Directors whether by the Council or by Cabinet (the Executive) or derived from statute. The Scheme also sets out the powers of the Statutory Officers of the Council.

The Head of Paid Service, Corporate Directors and Statutory Officers may (where statute allows this) further delegate responsibility for matters to officers within their departments. These delegations must be in writing.

All delegated powers are derived from either the Council or Executive. The source of each delegation is specified in the Scheme.

Council, Cabinet or Committees may reserve to themselves decisions that have been delegated to officers by giving notice to the relevant Corporate Director or the Head of Paid Service.

When any new power or duty is given to the Council and it is unclear where responsibility for that function lies, the exercise of that power or duty will be undertaken by the Head of Paid Service or relevant Corporate Director.

Role of the Corporate Strategic Board (CSB)

The Chief Executive, Corporate Directors, Monitoring Officer, Chief Finance Officer and Director of Adult Social Services are members of CSB. All officer reports must be considered by CSB in draft form before being submitted to Cabinet.

The terms of reference of CSB are as follows:

- Provide strategic leadership by:
  - Setting a clear direction of travel and vision for the organisation
  - Developing council strategies and policies
  - Developing a corporate view and key messages
  - Providing robust and constructive challenge
  - Facilitating political management of cross council and partnership issues
  - Enhancing/maintaining the reputation of the council
  - Having overview of the council's finances and budget
  - Having an overview of the council's governance arrangements e.g. legal and financial
- Consider and make decisions on council issues which need cross council input and/or ownership to deliver. These may be of particular high risk or complexity, or a priority in the corporate plan.



- Develop thinking at the beginning of a new policy or strategy to help set direction of travel.
- Collaborate on finding solutions to 'sticky' issues affecting the council or to improve services.
- Monitor corporate performance, budget and risk, and act as appropriate.

### Role of the Building a Better Harrow Board (BBHB)

The Chief Executive, Corporate Directors, Monitoring Officer, Chief Finance Officer Director of Adult Social Services and Divisional Director, People Services Strategy are members of the BBHB. The terms of reference of the BBHB are as follows:

#### 1. To provide a Strategic Regeneration Direction for London Borough of Harrow to include:

- Strategic Development & Council Lead Regeneration Plans
- Long, Medium and Short Term Council Regeneration Investment Strategy
- Wider Regeneration Programmes across the Council
- Commercial Management of Councils Investments Vehicles (including Concillium Group Ltd, Concillium Business Service Ltd trading as Smart Lettings, Concillium Assets LLP and Sancroft Community Care Ltd)
- Regeneration Programme - Build New Homes to provide long term income streams to the Council, Affordable Housing and Social Rental properties

#### 2. To provide Strategic Direction & Statutory Compliance of all Councils Assets:

- Asset Management Strategy (including Asset Rationalisation, Disposals and Best use of Councils Assets)
- Development of Corporate Landlord function (excluding Housing Assets)
- Development of Council Regeneration Investment Programme (including land assembly/acquisitions)
- Strategic Management of all Councils Contracts including PFI contracts.

#### 3. To provide a wider Strategic Direction on the interactions within Council services to meet the Councils Ambition plan:

- Community Needs Strategy (including patterns of community need, Homelessness, Care provision, Education and Health)
- Economic Strategy (including Income Generation with new businesses, Business Retention and Rates, Homes, Employment, Apprenticeships and Improvement of Harrow Town Centres/High Streets/District Centres)
- Improving Civic offer and making the most efficient use of public buildings

Extract 2 – delegation of powers to Head of Paid Service and Monitoring Officer

| INDIVIDUAL DELEGATIONS  | Source of Delegation       |
|---|----------------------------|
| <b>Head of Paid Service</b>   |                            |
| <del>7. To take such action in relation to Statutory Chief Officers and Chief Officers as assigned in Rule 7 of Section 4H.</del>   | Council                    |
| <u>Following consultation with the Leader and the Leader of the Opposition, to suspend the Monitoring Officer or Chief Finance Officer in cases of emergency as defined in the JNC procedure</u>  | <u>Council</u>             |
| <u>Following consultation with the Leader and the Leader of the Opposition, to refer matters of discipline (as defined in the disciplinary procedure) in respect of the Monitoring Officer or Chief Finance Officer to the Chief Officers' Employment Panel</u> | <u>Council</u>             |
| <b>Monitoring Officer</b>   |                            |
| <u>Following consultation with the Leader and the Leader of the Opposition, to suspend the Head of Paid Service in cases of emergency as defined in the JNC procedure</u>   | Council decision July 2019 |
| <u>Following consultation with the Leader and the Leader of the Opposition, refer matters of discipline (as defined in the disciplinary procedure) in respect of the Head of Paid Service to the Chief Officers' Employment Panel</u>                           | Council decision July 2019 |
|   |                            |