

LONDON BOROUGH OF HARROW

Meeting:	Annual Council
Date:	Annual Council 13 th May 2004
Subject:	Changes to the Council's Constitution
Key decision:	No
Responsible Chief Officer:	Chief Executive
Relevant Portfolio Holder:	Strategy and External Affairs
Status:	Part 1
Ward:	All
Enclosures:	Annex 1 Proposed changes to the call-in procedure Annex 2 – Anti fraud and corruption strategy Annex 3 – Terms of reference Licensing and General Purposes Committee Annex 4 – Speaking rights at Development Control Committee Annex 5 – Employment Procedure Rules Annex 6 – Statutory officer powers Annex 7 – Deputation procedure for committees

1. Summary/ Reason for urgency (if applicable)

1.1 This report seeks to obtain Member approval for a series of minor and administrative changes to the current Constitution.

1.2 **The main changes proposed to the Procedure Rules and Articles are to:**

- Make clear that education co-optees on Overview and Scrutiny can vote only on education matters (6.1.1.1);
- Clarify the grounds for rejecting requests to call in decisions (6.1.1.1)
- Enable the Leader or Deputy Leader to make a portfolio holder decision where the relevant portfolio holder is conflicted out (6.1.1.3);
- Clarify the procedure for adding reports to agendas after publication (6.1.1.4);
- Include prior approval telecommunication applications to those which are subject to speaking rights at Development Control Committee (6.1.1.5);
- Allow extensions of time for speeches at the Council tax meeting (6.1.1.6);
- Include rules relating to political assistants within the constitution as required by law (6.1.1.7);
- Ban photography and taping at any Council meeting unless prior permission is sought and granted (6.1.1.8);
- Allow the Borough Solicitor to cancel a meeting before and after the agenda has been issued (6.1.1.8);

- Change the access to information rules following a change in the law (6.3.1);
- Deal with a number of minor administrative and housekeeping changes to the rules (6.1.1.2, 6.1.3.1, 6.2.3)
- Change the rule requiring the Executive to consider reports from Overview and Scrutiny at the 'next' meeting to consider them at an 'appropriate' meeting (6.1.1.1.)
- Clarify the procedure for deputations at committees (6.1.1.8)
- Improve the effectiveness of decision making at Development Control Committee by requiring further training to be undertaken (6.1.1.9)
- Restrict the items applicable to the Annual Council Meeting (6.1.1.11)
- Clarify the effect of statutory provisions on the admission of urgent items to Council Meetings (6.1.1.12)
- Qualify the content and order of business at Council Meetings to reflect accepted practice (6.1.1.13)

1.3 The main changes proposed to the Allocation of Responsibilities are:

- To ensure that decisions of the Personnel Appeals Panel are referred to Council for ratification if they impact on the budget or policy framework (6.1.2.2);
- Making the changes needed to implement the Licensing Act 2003 (transfer of liquor licensing to the Council) (6.3.2);
- Minor changes to Executive responsibilities (6.1.2.4 – 6.1.2.6);
- Deal with a number of minor administrative and housekeeping changes to the allocation of responsibilities (6.1.2.1, 6.1.2.2, 6.1.2.3)
- To incorporate the establishment of an Audit Committee (6.1.1.10)

1.4 The proposed additions to the Constitution are:

- The anti fraud and corruption strategy (6.2.1.);
- The protocol on Members use of Information technology (6.2.2);
- Inclusion of the responsibilities of all statutory officers (6.2.4)
- Standards Committee investigations procedure (6.3.3);

2. Recommendations (for decision by Council)

2.1 That the amendments to the Constitution detailed at paragraph 6 be approved and incorporated in the constitution

2.2 That Council approve the amendment to the Members Allowances Scheme for 2004/2005 set out in paragraph 6.3.4.

REASON:

**To bring the Constitution up to date to reflect current practice and the law.
To make a minor correction to the Members Allowance Scheme for 2004/2005**

3. Consultation with Ward Councillors

3.1 Not applicable

4. Policy Context (including Relevant Previous Decisions)

4.1 The new Council Constitution was approved in its present form in September 2002. Changes in the law, policy and practice require changes to be made, and Members and officers have also made requests for changes to be made to various elements of the constitution now that it has been in use for some time.

5. **Relevance to Corporate Priorities**

5.1 No direct relevance.

6. **Background Information and options considered**

The changes proposed fall into three categories:

Category 1: those changes which have been requested by officers and/or Members, or which are required following decisions of the Council and impact on the existing provisions;

Category 2: changes and/or additions which were identified for later implementation at the time the Constitution was originally agreed;

Category 3: changes required by statute or other rule/policy.

6.1. Category 1 (those which have been requested by officers and/or Members, or which are required following decisions of the Council which impact on the existing provisions)

6.1.1 Changes to Procedure Rules (Part 4)

6.1.1.1 Overview and Scrutiny Rules - the call-in procedure (Page 4F-17)

The current rules do not make it clear that the voting co-opted members of the Lifelong Learning Scrutiny sub-committee may only call in decisions related to education matters.

It is also proposed to clarify to basis on which call-ins are currently rejected. The wording is at Annex 1.

The proposed addition to the rules is attached as Annex 1 and highlighted in bold italics.

Page 4F-13

Rules 16.1 and 16.2 will be amended to indicate that the executive will consider reports from Overview and Scrutiny committees at 'an appropriate meeting' rather than at the 'next meeting', and the time frames in the rules will be changed accordingly.

6.1.1.2 Advisory and Consultative Procedure Rules

Page 4E-6

Sections 15.3 and 15.4 of these rules were inadvertently omitted in the original Constitution. They are identical to the Executive Procedure Rules 15.3. and 15.4 and should be inserted. Rule 15.5 refers to the 'Chair', but this should read 'the Borough Solicitor'.

Page 4E-4

Rule 11.2 needs to be amended to exclude Education Consultative Forum (which has its own rules for quorum).

6.1.1.3 Executive Procedure Rules - Decision making by individual portfolio holders in circumstances where there is a conflict of interest

The Constitution (Executive Procedure Rules 6.2) currently provides that:

If the exercise of an Executive function has been delegated to an individual Member or an officer and a conflict of interest arises, then the function will be exercised, in the first instance, by the person or body by whom the delegation was made.....'

This means that a portfolio holder decision which cannot be taken by the relevant portfolio holder must be referred to Cabinet. In light of experience, and to ensure that Cabinet deals with the more significant issues affecting the Council, it is proposed that an amendment be made to the Constitution to enable decisions in such circumstances to be referred to either the Leader or the Deputy Leader for decision. This ensures that where an individual decision by the Leader cannot be taken due to a conflict of interest, the Deputy Leader may take that decision.

It is therefore proposed that point 6.2 above be deleted, and a new paragraph 6.2 inserted to read:

'If the exercise of an Executive function has been delegated to an individual Member and a conflict of interest arises, then the function may be exercised, by the Leader or Deputy Leader. In the case where an officer is unable to take a delegated decision due to a conflict of interest, and no scheme exists within the department which allows referral of that decision to another appropriate officer, that decision will be referred to the relevant portfolio holder, or the Leader or Deputy Leader.'

Page 4D-7

The provision at 15.3 should refer to clear working days.

6.1.1.4 Access to Information Procedure Rules

Page (4G -2)

Add the following text at the beginning of the paragraph 6 to clarify the position on adding items to the agenda.

" If there is a requirement to add an agenda item to an agenda after the statutory deadline for publication, that item may only be considered if the Chair agrees, by virtue of the special circumstances set out either in the report or on the supplemental agenda, that the item should be considered as a matter of urgency and specified in the minutes of the meeting."

This amendment should also be incorporated into other relevant procedure rules.

Page 4G-11

Paragraph 2 of this rule was included in the Constitution in error and should be removed.

6.1.1.5 Committee Procedure Rules - Amendment to speaking rules for Development Control meetings (Page 4B-9)

It is proposed to amend the rules as set out in Annex 4. It is proposed to extend the representations procedure to telecommunications determinations (which currently fall under the deputations procedure) to ensure that the Development Control Committee is consistent in the way it treats different types of application.

6.1.1.6 Council Procedure Rules

A provision will be included that enables for the exceptional extension of time at the Council Tax meeting to allow for opening and seconding speeches on the budget for each main political group to be extended to a period of up to 15 minutes in total for each group.

6.1.1.7 Officer Employment Rules

It is proposed to clarify the rules relating to the number and appointment of political assistants within the Constitution. These are attached as Annex 5.

6.1.1.8 Procedure Rules - general

It is proposed that a Rule be incorporated within the Constitution to enable the Borough Solicitor to cancel a meeting both before and after the agenda has been issued.

It is proposed to include a rule banning photography and recording of proceedings of the Council, any of its committees and Cabinet, without express prior authority in writing from the Borough Solicitor. This is to ensure that the decision making of the authority is not impeded and that any taping or filming of proceedings is appropriately regulated and supported.

The procedure rules relating to reserving at meetings (other than at Cabinet where reserving is not possible) state that:

Reserve Members may attend meetings in that capacity only:

- i) to take the place of an ordinary Member for whom they are a reserve;*
- ii) where the ordinary Member will be absent for the whole of the meeting; and*
- iii) after notifying the Chair at the start of the meeting.*

It is proposed to include this Rule in the list of Rules which cannot be waived by committee, as the rule would lose its impact if it were to be routinely waived.

All procedure rules will include changes to the rules on questions submitted to meetings by e-mail. Specifically, there will be a single reception address for e-mailed questions. The rule will make clear that no responsibility can be taken by the Council for questions which fail to reach the address advertised in time or at all.

In addition, the question will be required to include the questioner's personal name and address. This is to ensure that questions are not submitted by one person on behalf of another.

All procedure rules will include clarification about the process for deputations, including the requirements for being a member of a deputation and requiring speakers at committee to have been a signatory to the deputation request. The proposed changes are set out in annex 8.

6.1.1.9 Development Control Committee

Cabinet on 20th April 2004 received the Planning and Development Plan 2004/5 to 2006/7, and concurrent with that, the following proposal is made to improve decision making at Development Control Committee:

From a date to be specified in writing by the Chief Executive (which date shall be the completion of an initial course of Members' training), membership of the Development Control Committee shall be restricted to Members who have completed the course of training and continue thereafter with training. If any Member is not trained to a standard specified by the Chief Executive, s/he shall not be a Development Control Committee member, or if in membership, shall be replaced by another Member who satisfies the training requirements.

6.1.1.10 Audit Committee

Overview and scrutiny committee on 27th April recommended to Council the establishment of an Audit Committee and the terms of reference for this committee would be included in the constitution.

6.1.1.11 Rules not Applicable at Annual Council

Dealing with public and Members' questions (Council Rules 12 and 13) and Motions (Rule 15) at the Annual Council Meeting is inappropriate to the occasion and not understood by the public/guests attending this civic evening. It is proposed that these Rules be amended to make them non-applicable to the Annual Meeting, which had been accepted custom and practice until very recently.

6.1.1.12

An addition is proposed to be made to Council Procedure Rule 7 (Notice and Summons to Meetings) which will clarify that business that is not on the Summons can only be added if the Chair (the Mayor) in that statutory capacity agrees that the matter is urgent and specifies the reasons for then including the item on the agenda, which decision cannot be the subject of challenge by other Councillors. This statutory power takes precedence over Rule 15.2 (Urgent Motions), which latter Rule will be cross-referenced with Rule 7 to that effect. This will bring the Rules into line with existing practice and the law.

6.1.1.13

Council Procedure Rule 4.1 prescribes the items for and order of business for Ordinary Council Meetings. It is proposed to retain the list of items but to add a provision which allows the Borough Solicitor discretion to include those items in the Summons in an order considered appropriate to that meeting for the efficient dispatch of the business. This would reflect existing practice.

6.1.2 Changes to the Allocation of responsibilities (Part 3)

Council responsibilities:

6.1.2.1 Responsibility for appointments to outside bodies

There is duplication in the current Constitutional rules. The Council, at its Extraordinary Meeting on 28 May 2002 (Resolution 26), agreed that it should retain responsibility for appointments to Outside Bodies. A consequential addition to the Council's terms of reference and deletion from the Executive's terms of reference was intended but overlooked.

6.1.2.2 Personnel Appeals Panel (Page 3-12).

After (c) add the following: 'except insofar as these may have an impact on the budget and policy framework agreed by the Council, when the decision may not be taken by the panel, and must be recommended to Council for approval'.

6.1.2.3 Officer scheme of delegation - Non Executive Decisions (Page 3-69)

Point 3 headings should be amended to read 'Delegated Decisions', and 'Urgent Delegated Decisions' for additional clarity.

Cabinet Responsibilities:

6.1.2.4 The Executive (Cabinet) (Page 3-17)

The threshold for Key Decisions is currently £100,000 revenue and £250,000 capital. These figures have not altered since the Constitution was approved in 2002. *It is suggested that Council consider an increase in the current thresholds to £xxxxx for revenue and £xxxxxxx for capital.*

Minor amendment to the Executive terms of reference are proposed in light of experience of using the Constitution:

- Amend Cabinet and Leader terms of reference to enable the Leader to respond to consultation papers.
- Amend the Executive terms of reference to include fixing the Council Tax tax base.
- Clarify that the capital programme/capital strategy is approved and managed by the Executive
- Enable the Portfolio holder responsible for property matters to make decisions to acquire, dispose of and lease property on the Council's behalf up to the threshold for key decisions.
- Clarify the terms of reference for Cabinet to show approval of the HRA rents as an executive function.

6.1.2.5 Community Consultative Forum (Page 3-33)

It is proposed to remove the requirement in paragraph 1. for minutes of the Forum to be submitted to Cabinet for information. This was included in error as minutes are already circulated to all Members via the monthly Minute Volume.

6.1.2.6 Education Consultative Forum – (Page 3-35)

Point 8 states that the Vice Chair will be elected from Councillors, but the Forum has agreed that the vice chair will be from non-councillor members and they have requested the terms of reference be amended accordingly.

6.1.2.7 Harrow Town Centre Strategy (Cabinet Committee) (Page 3-31)

Cabinet agreed to establish this Committee on 20th April 2004. The terms of reference will be incorporated into the Constitution.

6.1.2 Articles of the Constitution (Part 2)

6.1.3.1 Article 14.04. (relating to contracts)

The provision in 14.04 that two officers sign contracts has never been enforced. It is suggested that the Constitution be amended to reflect the existing practice.

6.2. Category 2: (Changes and/or additions that were identified for later implementation at the time the Constitution was originally approved)

6.2.1 Anti Fraud and Corruption Strategy

This new Strategy is recommended for inclusion in Part 5 of the Constitution. The Strategy is at Annex 2.

6.2.2 Protocol on Members' use of Information Technology

This was approved by Standards Committee in July 2002 and will be incorporated into the Constitution.

6.2.3 Joint arrangements – Article 11

The Article dealing with joint arrangements and partnerships should be updated to reflect changes in joint arrangements and the new partnership arrangements.

6.2.4 Statutory Officer roles

The statutory roles of each statutory officer (Head of paid service, section 151, monitoring officer, education, and social services) will be included in the constitution. In respect of the monitoring officer this will include a protocol regarding the use of his powers. It is recommended that this information is included in part 3 of the Constitution. The statutory powers are set out at annex 7.

6.3. Category 3: (changes required by statute or other rule/policy)

6.3.1 Access to Information Rules

Regulations have now been made under section 66 of the Local Government Act 2000. These provide for changes to the regime for exempt and confidential information.

6.3.2 Licensing Act 2003

The new Licensing Act requires changes to the terms of reference of the General Purposes and Licensing Committee and to the scheme of delegations (see annex 3). Further changes may be required in light of the implementation of this act, including the need for specific rules on deputations (similar to the special rules relating to planning and telecommunications determinations).

6.3.3 Local determination procedures

This procedure was approved by Standards Committee on 7th October 2003 and Council on 23rd October 2003, and will be incorporated into the Constitution.

6.3.4 Members Allowance Scheme

Amendments to the Scheme were approved by Council on 26th February 2004 as part of the Council Tax report. A decision was made to approve special responsibility allowances for members of quasi-judicial bodies. In error, the Chief Officer Appointment Panel and the Pension Fund Investment Panel were included in the list. Council is requested to remove these bodies from the scheme.

6.4 Items for future consideration

The Constitution should be kept under review to ensure it is reflecting the requirements of the Council and the law. A number of changes are proposed for future consideration and are listed for information:

6.4.1 Protocol on planning and lobbying

This requires updating in light of experience of its use and external advice.

6.4.2 Scheme of delegation to officers

The scheme was agreed without any change in 2002. Officers are preparing a full revised scheme and will bring it forward for Cabinet or Council approval (as appropriate) later in 2004.

6.4.3 Contract Procedure Rules

These procedure rules are currently being redrafted for approval by Council.

6.4.4 Protocol on Members and commercial contracts

Standards Committee have agreed that this protocol should be included in the Constitution as one of the raft of protocols within the Constitution designed to support Members and clarify legal and local rules.

6.4.5 Financial Procedure Rules

These are currently being redrafted for approval by Council.

7. **Consultation**

7.1 Nominees from the political groups have received this report and commented upon it.

8. **Finance Observations**

8.1 There are no financial implications arising from this report.

9. **Legal Observations**

9.1 The Local Government Act 2000 introduced the requirement that all Councils introduce a written constitution. Some of the provisions contained therein are legal requirements.

10. **Conclusion**

10.1 Members are requested to approve the amendments set out in paragraph 6 above to take on board changes required by reason of policy, rule or statute, and that these be incorporated within the Council Constitution

11. **Background Papers**

11.1 Council Constitution. Anyone wishing to inspect the background papers should contact Alison Vydulinska on 020 8424 7629.

12. **Author**

12.1

Annex 1 - Proposed Changes to Call-in Procedure.

22. Call-in

- 22.1 Call-in is the process whereby a decision of the Executive, Portfolio Holder or Officer taken but not implemented, may be examined by the Overview and Scrutiny Committee prior to implementation. Overview and Scrutiny Committee may recommend that the decision taker reconsider the decision.

For the avoidance of doubt, a decision may only be subject to the call-in procedure once.

The process for call-in

- 22.2 Any six of the Members of the Council can call in a decision of the Executive which has been taken but not implemented. ***Additionally, in relation to Executive decisions on education matters only, any six Members of the Council and the voting co-opted members on the Lifelong Learning Scrutiny sub-committee can call-in a decision which has been taken but not implemented.*** Only decisions relating to Executive functions, whether delegated or not, may be called in.
- 22.3 Decisions of the Executive shall not be implemented for 5 clear working days following the publication of the decision(s) and a decision can only be called in during this period. This Rule does not apply to urgent decisions (see Rule 23 below). The notice of the decision will state the date on which the decisions may be implemented if not called in. (See also Executive Procedure Rule 27.3).
- 22.4 Call-in must be by notification to the Borough Solicitor in writing or by fax, signed by all six Members and voting co-optees requesting the call-in. A request for call in by e-mail will require a separate e-mail from each of the six Members concerned.

(Add to 22.5)

The Borough Solicitor, in consultation with the Chief Executive, may reject a call-in request if, in their opinion, it fails to meet one of the grounds listed above, and if it is in any way vexatious, frivolous or otherwise inappropriate. Examples include but are not limited to:

- **The cited grounds bear no relevance to the decision that is identified for call-in**
- **The requisition cites grounds for which no evidence is produced in support**
- **Those requisitioning the call- in signed the requisition before it was complete**
- **The call in includes material which could be defamatory**
- **The requisition is being used for improper purpose (e.g. to admonish an officer)**

▪ **Annex 2 – Anti Fraud and Corruption Strategy**

LONDON BOROUGH OF HARROW

ANTI-FRAUD AND CORRUPTION STRATEGY

INTRODUCTION

- 1 This document details the Authority's anti-fraud and corruption strategy. It outlines:
- the Authority's commitment to maintaining an anti-fraud culture and the respective roles of individuals within this
 - the mechanisms in place to prevent, detect and investigate fraudulent activities
 - where to go for further guidance

POLICY

- 2 The Authority is committed to accountability, and to maintaining an honest and open environment. In so doing, it will take positive action against any identified fraudulent or corrupt activities, both within the Authority and outside. This is applicable to members of the Council and its officers, and to the Authority's dealings with other organisations and the public.
- 3 In all its dealings the Authority will adhere to the Nolan principles, which are:
- **Selflessness** Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their families, or their friends.
 - **Integrity** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
 - **Objectivity** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
 - **Accountability** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
 - **Openness** and **Inclusivity** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands. Openness requires an inclusive approach, an outward focus and a commitment to partnership working.
 - **Honesty** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
 - **Leadership** Holders of public office should promote and support these principles by leadership and example.

- 4 Both members and officers of the Council have a duty to ensure that the Authority's anti-fraud and corruption policies are implemented. To help them do this they should refer to the Members Code of Conduct, the Code of Conduct for Council Employees, and Financial Standard 8 (Financial Irregularities).

DEFINITIONS

- 4 The following definitions, whilst not exhaustive, apply throughout this document:
- **Fraud** The intentional distortion of financial statements to conceal the misappropriation of assets or property for personal gain or benefit of others. Frauds may be perpetrated internally or externally, and may involve third parties.
 - **Corruption** Obtaining a benefit from a fraud executed for the direct benefit of a third party. This type of fraud involves collusion between two or more parties where a holder of public office gains some sort of payment, favour or gift, either personally or for a member of the family or close friend, in return for an action, or inaction, contrary to their normal duties.

RESPONSIBILITIES

- 6 Different parties have a role to play in promoting and enforcing an anti-fraud and corruption culture. These are summarised below.
- 7 **Chief Financial Officer** The Chief Financial Officer is responsible for the proper administration of the Authority's financial affairs. S/he is also obliged to report to Council and the External Auditor if the Council or one of its representatives makes, or is about to make, a decision which is unlawful, or involves illegal expenditure or a potential financial loss.
- 8 **Monitoring Officer** The Borough Solicitor is responsible for reporting to full Council in the event of any possible illegality coming to his attention.
- 9 **Managers** All managers are responsible for maintaining internal control systems and for ensuring that the Authority's resources are properly applied in the manner, and on the activities, intended. This includes responsibility for the prevention and detection of fraud and other illegal acts. Guidance can be found within Financial Regulations and Standards.
- 10 **Staff** Each member of staff is responsible for his/her own conduct, and for contributing towards the safeguarding of corporate standards. This will include such areas as declaration of interests, private working, whistleblowing, etc. Guidance on these areas can be found in Financial Regulations and the Code of Conduct for Council Employees.
- 11 **Internal Auditors** Audit and Consultancy Services are responsible for the independent appraisal of control systems, and for assisting managers in the investigation of irregularities (see Financial Standards 8 and 12).

- 12 **External Auditors** External Audit have specific responsibilities for reviewing the stewardship of public money and for assessing the adequacy of arrangements in place to prevent and detect fraud and corruption.
- 13 **Members** Each member of the Council is responsible for his/her own conduct, and for contributing towards the safeguarding of corporate standards, as detailed in the Members Code of Conduct.

PREVENTION AND DETECTION

- 14 The Authority has wide range of mechanisms in place aimed at prevention and detection of fraud and corruption. These are summarised below:

- 15 **Corporate Governance**, including:

- **Members Code of Conduct** This contains guidance on personal and prejudicial interests, and confidentiality. Protocols deal with access to documents and meetings, relationships between members and officers, gifts and hospitality, Contract Procedure Rules and Financial Regulations and Standards. These are contained in the Constitution.
 - **Code of Conduct for Council Employees** This covers general standards; financial and non-financial interests; relationships with colleagues, managers, councillors, contractors, the press and the public; health and safety; care of money and property; political neutrality and political restrictions; and responsibilities of Directors and Chief Officers.
 - **Financial Regulations and Standards** Financial Regulations provide the framework within which the Council manages its finances and safeguards its assets. They are issued by the Council and are binding on all employees. Financial Standards are part of Financial Regulations, and define the minimum standards required to provide effective and efficient financial arrangements.
 - **Contract Procedure Rules** Contract Procedure Rules govern the entering into of all contracts and provide detailed rules for the obtaining of quotations and tenders. Any waivers of Contract Procedure Rules are required to be properly authorised and recorded.
 - **Council Constitution** The constitution sets out how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to decide.
- 16 **Staff Selection/Screening** The Council's Recruitment and Selection Procedure (Harrow Scheme for Pay and Conditions of Service 1.5) ensures that staff are appointed on merit and provides controls to eliminate the appointment of unsuitable persons:
- Applicants are required to complete an application form and declare any criminal convictions that are not spent. Where appropriate applicants are also required to declare all past offences or pending prosecutions and may also be subject to a police check. (See Harrow Scheme 1.3)
 - Applicants are required to produce documentary evidence of any qualifications they claim to hold.
 - Written references are requested for all successful applicants, one of which must be obtained from the most recent/relevant employer. The Council's fidelity insurance

guarantee requires that applicants for posts with responsibility for money, goods, accounts, or computer programming/operation of financial systems must provide satisfactory references from all employers during the previous 3 years. (See Harrow Scheme 3.28)

- Applicants who are offered appointments are required to provide proof of eligibility to work in the UK prior to commencing employment.
- New staff are required to provide a National Insurance number which is validated in accordance with DSS procedures.

- 17 **Staff Training** The Council's corporate induction process makes staff aware of the anti-fraud and corruption strategy and where to find additional information. The requirements placed upon employees are reinforced through ongoing communication and training mechanisms.
- 18 **Control Systems** Weaknesses in internal control can result in errors or, in more serious cases, theft, fraud or corruption. It is important, therefore, that robust control systems are implemented and regularly reviewed. Managers at all levels are required to operate arrangements for planning, implementation, monitoring and review of control systems (see Financial Standard 13).
- 19 **Internal Audits** These are undertaken by the Authority's internal audit unit (Audit and Consultancy Services) in accordance with the requirements of the Accounts and Audit Regulations 1996 and associated professional guidelines. Reviews of control systems are conducted across all departments of the Council and coverage is determined using an objective risk based process. The reviews provide assurance on the effectiveness of internal controls, and alert managers to system weaknesses in order that corrective action can be taken to minimise risk. Ongoing advice on risk management and control improvement is also provided. An annual report on coverage and key findings is submitted to the Overview and Scrutiny Committee.
- 20 **External Audits** External audits are carried out by Deloitte and Touche in accordance with the provisions of the Audit Commission Act 1998, the Accounts and Audit Regulations 1996, and the accompanying Code of Audit Practice. The external auditor undertakes a planned programme of work across the Authority, including an annual review of the Authority's arrangements for preventing and detecting fraud and corruption. The External Auditor presents an annual report on coverage and key findings to the Cabinet and to the Overview and Scrutiny Committee.
- 21 **Whistleblowing Procedure** The Authority has a whistleblowing policy enabling staff to report concerns about a more senior officer, or a Councillor, without the fear of resultant victimisation, whilst protecting officers and members from uninformed or vexatious allegations. Details of the procedure can be found in the Harrow Scheme 3.36. Whistleblowers are also protected by the Public Interest Disclosure Act 1998.
- 22 **Complaints Procedure** Departments are responsible for operating arrangements for the investigation of complaints. Where complaints indicate possible fraud or corrupt activities, these are dealt with in accordance with the appropriate procedures (See Financial Standard 8, Departmental Management Investigation Policies, Disciplinary Procedure.)
- 23 **NFI** As part of the annual external audit process, the Audit Commission requires the Authority to participate in the National Fraud Initiative (NFI). The Authority provides data from its computer systems, which is matched with that of other authorities and agencies, to identify possible fraud. Details of matches are returned to the Authority where further internal investigations are undertaken to identify and pursue cases of fraud and irregularity.

- 24 **LTAF** The London Team Against Fraud (LTAF) is the operational arm of the London Committee for Action Against Fraud (LCAAF) and is funded by the London Boroughs. LTAF provides a focal point for the exchange of information on fraudulent activity and produces good practice guidelines.
- 25 **Communication Mechanisms** Information on potential fraud is received regularly from a variety of sources, including the Audit Commission and LTAF. Departments are responsible for acting upon this information and for sharing any other information which may be of wider interest across the Authority.
- 26 **Metropolitan Police Partnership** The Crime and Disorder Act 1998 requires the Metropolitan Police Service and other specified bodies to undertake prescribed steps in a crime reduction initiative for London. As a result partnerships have been developed with London local authorities, with the aim of identifying areas where increased liaison can reduce levels of crime, and enhance the effectiveness of fraud and corruption investigation in the public sector. This is achieved through intelligence sharing, the development of partnership protocols, crime prevention and training.
- 27 **Independent External Inspection** The Authority is subject to regular inspection by a number of external agencies and the Local Ombudsman. These provide further independent evidence on the adequacy of systems and may highlight irregularities for further investigation. The work of the Benefits Fraud Inspectorate is particularly relevant here.

INVESTIGATION

- 28 A number of investigative mechanisms are in place to deal with suspected cases of fraud and corruption. These are outlined below.
- 29 **Housing Benefit Investigations** The investigation of suspected housing benefit fraud is undertaken by a dedicated housing benefit investigation team within Financial and Exchequer Services. The work of the unit is supported by a comprehensive Prosecution and Penalty Policy designed to ensure that fraud is rigorously pursued.
- 30 **Other investigations** The investigation of all other categories of suspected fraud and corruption is undertaken by management, in consultation with Audit and Consultancy Services, Personnel Services and Legal Services. Guidance on undertaking these investigations is contained within the Disciplinary Procedure (Harrow Scheme 3.02) and Financial Standard 8.
- 31 **Police Liaison and Referral** Where there is evidence that a criminal act has taken place, management may seek police advice upon the investigation process and the collection of evidence and, on the advice of the Borough Solicitor, pursue a prosecution.

RESTITUTION

- 32 There are a number of mechanisms in place within the Authority to seek redress in cases of fraud and corruption. These are as follows.
- 33 **Disciplinary Action** The Authority's Disciplinary Code identifies 'stealing from the Council, its employees or the public' and 'criminal offences outside work which have a direct bearing on the individual's employment' as examples of gross misconduct. These will normally lead to summary dismissal.

- 34 **Prosecution Policy** Prosecution is considered in all cases of fraud and corruption, in consultation with the Borough Secretary and Solicitor to the Council. For cases of housing benefit fraud a detailed Prosecution and Penalty Policy and Procedure is in place.
- 35 **Recovery of Money and Goods** Management will take all reasonable action to recover any money or goods owed to, or the property of, the Authority. The police are requested to seek compensation orders in the criminal courts, and civil action is taken where necessary, to recover all costs.
- 36 **Insurance** The Authority regularly reviews corporate risk to ensure that adequate insurance provision is available to meet anticipated claims. Managers are responsible for ensuring that insurance claims are initiated. (See Financial Standard 12)

REPORTING AND PUBLICITY

- 37 Incidents of fraud and corruption are reported through the following mechanisms:
- **Overview and Scrutiny Committee** The Overview and Scrutiny Committee considers the circumstances of all significant irregularities, and can report on, and make recommendations to, the Cabinet or other appropriate body. Accordingly, the Chief Internal Auditor reports individual cases on a six-monthly basis, with an annual report summarising volumes and values and identifying trends. Similarly the Head of Financial and Exchequer Services submits six-monthly reports to the Committee on the activities of the Housing Benefits fraud team.
 - **Audit Commission** The Authority reports annually to the Audit Commission on identified cases of fraud and corruption.

Publicity Where appropriate, the Authority will publicise actions taken to identify fraud and corruption, and the outcomes of prosecutions.

GENERAL PURPOSES AND LICENSING COMMITTEE

The powers and the duties of the General Purposes and Licensing Committee are:

- (a) to consider all matters which the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 and 2001 listed by Committee in the Schedule to this document, which are required not to be the responsibility of the Executive, save for those matters delegated to other Committees of the Council;
- (b) to carry out the functions under any relevant statutory provision within the meaning of Part I (Health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer;
- (c) To keep under review and to determine the arrangements for the holding of elections and any referendums within the Borough and to initiate or respond to any proposals to the change of ward, constituency or Borough boundaries;
- (d) The determination of applications under the Local Government Superannuation Regulations and the Teachers' Superannuation Regulations and the determination of applications under the Council's Personal Injury Allowance Scheme.
- (e) to determine all matters and duties on the authority imposed by legislation, regulations orders, codes, and similar provisions for:
 - The supply of alcohol (whether or not by sale)
 - The control of entertainment, including but not exclusively; music, dancing, film, sports, plays, acting, hypnosis.
 - The opening of premises for prescribed activities.
 - Food safety and control.
 - Animal health, welfare, safety and control.
 - Gaming, betting, lotteries and related amusements
 - Crime and disorder issues related to the above duties.

LICENSING PANEL

(i) To determine matters and to make Orders in respect of:

- Licenses, permits, notices, registrations and certificates;
- Rights of way, footpaths and bridleways and the enjoyment of the highway;
- Street naming and numbering;
- Markets and fairs and other street trading;
- Car park orders and variations;
- Registration of common land, town greens and variations of rights of common;

Where objections or statutory representations have been received and require determination.

(ii) To determine matters and to make Orders in respect of:

- Safety certificates for sports grounds;
 - Matters regarding film classification;
 - Rules and Regulations established by the authority;
 - Fees issues within the terms of reference of the sub-committee;
 - Applications under Part II and Schedule 3 of the Local Government (Miscellaneous Provisions Act 1982) as amended from time to time.
- (iii) To determine waivers and variations on matters determined by the General Purposes and Licensing Committee, Cabinet or Council.
- (iv) Without prejudice to the generality of the above sections, in the case of alcohol control provisions in the Licensing Act 2003 as might be amended, and related legislation, regulations, orders, guidance, etc, to determine the following matters:
- Applications for personal licences where:
 - Representations have been made, but remain unresolved.
 - Applicants have relevant unspent convictions.
 - Matters relating to the licensing, certification and authorisation at premises where:
 - Representations have been made to an application, but remain unresolved.
 - There is an unresolved police representation to an application to vary a designated personal licence holder, or to the transfer of a premises licence.
 - There is an unresolved police representation to the application for an interim authority, or to a Temporary Event Notice.
 - An application is made for the review of a premises licence or club premises certificate.
 - Matters of an exceptional nature that in the officer's opinion justify consideration by the Licensing Panel.

Information on the rights of Applicants and Objectors to speak in relation to Applications at the Development Control Committee

- 17.1 This procedure applies only to the following applications which are to be determined by the Committee:
- applications for planning permission which are being recommended for grant or approval by the Chief Planning Officer.
 - 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.

The Rule does not apply to applications where the recommendation of the Chief Planning Officer is to refuse planning permission or to refuse prior approval of details of siting and appearance.

- 17.2 The applicant may only make representations after any objector has addressed the Committee (i.e. if there is no objector to an application the applicant will not be permitted to speak)
- 17.3 No later than 5.00pm on the working day before the meeting, objectors should give notice to the Borough Solicitor of their wish to speak at the Committee.
- 17.4 Subject to 17.5, only one objector will be permitted to address the Development Control Committee in respect of each relevant application, and any group of objectors should therefore nominate a spokesperson.
- 17.5 In exceptional circumstances, the Development Control Committee may by motion agree to allow a maximum of two objectors to address the Committee.
- 17.6 Objectors and applicants may speak for a maximum of three minutes each. Where the Committee allows two objectors to address them under Rule 17.5, each objector may speak for a maximum of three minutes. In exceptional circumstances concerning significant applications the Development Control Committee may agree to increase the length of time for representations to a maximum of five minutes each.
- 17.7 Where an application is recommended for refusal by the Chief Planning Officer but the Committee is minded to grant permission, the application will be deferred to the next meeting of the Committee. This will enable re-notification to take place and give an opportunity for objectors to the application to attend the subsequent meeting and make representations.
- 17.8 The deputation procedure referred to in Rule 16 applies to all other business on the Development Control Committee agenda.

Annex 5 – Officer Employment Rules

Political Appointments under section 9 of the Local Government and Housing Act 1989

The current paragraph 5(b) on page 4H-2 will be amended to read as follows:

5. (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 Act;
- Is at the selection of the political group to whom the post has been appointed.

Annex 6

Statutory Officer powers

Head of Paid Service

<u>Function</u>	<u>Source of function</u>
Responsibility for the manner in which the discharge of the Council's functions is co-ordinated	Section 4 Local Government and Housing Act 1989
Responsibility for the number and grades of staff, their organisation and appointment and management of the authority's staff	Section 4 Local Government and Housing Act 1989

Section 151 Officer

<u>Function</u>	<u>Source of Function</u>
Responsibility for the proper administration of the financial affairs of the authority	S151 Local Government Act 1972, Section 112 Local Government Finance Act 1988 (as amended) and Section 6 of the Local Government and Housing Act 1989
Report on a decision, course of action or item of account which results or could result in unlawful expenditure	Section 114 Local Government Finance Act 1988 (as amended)
Report on the robustness of the authority's budget estimates and adequacy of proposed financial reserves	Section 25 Local Government Act 2003
If the controlled reserve appears inadequate, to report to the authority on the reasons for the situation and the action she considers appropriate	Section 27 Local Government Act 2003

Monitoring Officer

Function	Source of Function
Report on contravention or likely contravention of any enactment or rule of law.	Section 5 Local Government and Housing Act 1989.
Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 Local Government and Housing Act 1989.
Appointment of Deputy Monitoring Officer.	Section 5 Local Government and Housing Act 1989.
Report on resources needed to undertake Monitoring Officer functions.	Section 5 Local Government and Housing Act 1989.
Investigate misconduct in compliance with Regulations and directions of Ethical Standards Officers (ESO).	Regulations under Section 66(1) and 66(6) Local Government Act 2000. Direction from ESO in individual cases.
Establish and maintain registers of member's interests and gifts and hospitality.	Section 81 Local Government Act 2000 and Members' Code of Conduct.
Advice to Members on interpretation of the Code.	Members' Code of Conduct
Key role in framework for local determination of complaints. Advice to Members, officers and the public on the operation of the Code and how alleged breaches should be investigated.	Statutory guidance para. 8.20 Proposed Regulations under section 66 of the LGA 2000 (awaited)
Liaison with Standards Board for England and Ethical Standards Officers.	Regulations under sections 54(4), 57(3) and 66 of the LGA 2000.
Compensation or remedy for maladministration.	S.92 Local Government Act 2000.
Advice on vires issues, maladministration, financial impropriety, probity, policy framework and budget issues to all members.	ODPM guidance.

Chief Education Officer

<u>Function</u>	<u>Source of Function</u>
All education functions	Section 532 Education Act 1996

Social Services Officer

<u>Function</u>	<u>Source of function</u>
All social services functions	Section 6 Local Authority Social Services Act 1970 (as amended)

Annex 7

Deputation Procedure for Committees

- 16.1 Subject to Rule 17 any Committee or sub-committee of the Council may receive a deputation on any matter appearing on the relevant agenda.
- 16.2 Requests for deputations must be in writing and supported by the signatures of at least 10 residents or representatives of local organisations or businesses. The signatories must clearly state their names and addresses/qualifying business address. The request must explain why a deputation is required.
- 16.3 The request must be given to the Borough Solicitor at least two clear working days before the day of the meeting, although this requirement can be waived by the Committee or sub-committee on the grounds of urgency.
- 16.4 The deputation to the meeting must consist of not more than four people. Those nominated to speak should also be signatories to the original written request to make a deputation. All four people may speak but the total length of the speeches from the deputation must not exceed 10 minutes.
- 16.5 The time allowed for questioning of the deputation by Members will be 10 minutes.
- 16.6 The deputation shall be heard immediately before the relevant item on the agenda. The Chair has complete discretion to move any items that are subject to a deputation forward on the agenda.
- 16.7 Committees shall receive no more than two deputations per meeting.
- 16.8 No deputation shall appear before a Committee or sub-committee within 6 months after a deputation has appeared before it on the same or a similar subject.
- 16.9 Members of the Council, co-optees and advisors shall not be signatories to, lead or form part of any deputation.
- 16.10 Members of staff may lead or join deputations only in their capacity as local electors and on issues other than those affecting their employment with the Council.