

REPORT FOR: COUNCIL

Date of Meeting: 3 November 2011

Subject: **Recommended
Constitutional Changes**

Exempt: No

Enclosures: None

Section 1 – Summary & Recommendations

This report details proposed constitutional changes in respect of the operating arrangements for various matters, following consideration by the Constitution Review Working Group.

Recommendations:

That Council consider and decide whether to approve the proposed constitutional changes outlined in the report for adoption and addition to the Constitution where appropriate.

Section 2 – Report

1. The Constitution Review Working Group is an informal body established by agreement between the Group Leaders to receive proposals for alterations or updates to Authority's Constitution for formal submission to Council.
2. The following are proposed changes by the Constitution Review Working Group which comprises members from the two political groups represented on Council:

(A) Overview and Scrutiny Committee and Scrutiny Sub-Committees – Changes to numbers of meetings

The Scrutiny Leadership Group to the Committee requested that Constitution Review Working Group consider changes to the numbers of scrutiny meetings, in order to ensure that Performance and Finance scrutiny sub-committee and Health and Social Care scrutiny sub-committee had sufficient committee time to consider the increasing number of issues being presented.

The Leadership Group proposed that, rather than significantly increase the number of committees overall, it would make sense for the overall number of committees to be redistributed to accommodate the additional demand for Performance and Finance and Health and Social Care time.

The proposals put forward will result in changes to the number of meetings as follows:-

Current number of meetings	Proposed number of meetings
Overview and Scrutiny = 15 (3 sp)	Overview and Scrutiny = 13 (3 sp)
Health and Social Care Scrutiny Sub = 4	Health and Social Care Scrutiny Sub = 6
Performance and Finance Scrutiny Sub-Committee = 4	Performance and Finance Scrutiny Sub-Committee = 5
Total = 23	Total = 24

Overall, there will be an increase of one meeting. The schedule of changes is attached for Members information.

Set out below, is Committee Procedure Rule 35, Part 4B of the Council's Constitution:-

35. Meetings of the Overview and Scrutiny Committee and its Sub-Committees

35.1 There shall be ~~fifteen~~ **thirteen** scheduled meetings of the Overview and Scrutiny Committee, ~~four~~ **five** scheduled meetings of Performance and Finance sub-committee, and **six scheduled meetings of Health and Social Care sub-committee** in each municipal year. The Call-In sub-committees shall be convened as and when required.

35.2 Following consultation with the nominated members of each of the political groups (and in the case of the Overview and Scrutiny Committee, with the four voting co-opted members) the relevant Chair shall have the power to alter the venue, day and time of the meeting or to cancel a meeting if he or she believes it to be appropriate for the conduct of the business of the Committee or sub-committee. The Access to Information Procedure Rules must still be adhered to.

35.3 The dates of meetings of the Overview and Scrutiny Committee and Scrutiny sub-committee will be as determined in the annual calendar of meetings or determined by the Monitoring Officer and notified in the agenda of all meetings.

RECOMMENDATION TO COUNCIL: The Group agreed the amendment of the number of meetings of the Overview and Scrutiny Committee, Health and Social Care Sub-Committee and Performance and Finance Sub-Committee .

(B) Council Questions Without Notice

Currently at Council Rule 12 of the Constitution there is laid out a procedure for addressing Questions Without Notice. The Group considered an amendment to the current operating arrangements to enable such questions to be dealt with prior to the commencement of debate to ensure all queries are as fully responded to enable a rounded debate and decision making on matters under consideration by Council.

The Group discussed the implications of introducing the proposed amendment that would respond to the principle of dealing with Questions Without Notice prior to the commencement of debate and the suggested amendment is detailed below for Council's consideration.

RECOMMENDATION TO COUNCIL: the Group proposed the adoption of the following amendment to the Constitution:

12. Questions Without Notice

12.1 Questions Without Notice

12.1.1 A Member of the Council may ask a Member of the Executive, or Chair of a Committee any question without notice upon an item in a report of the Executive or a Committee when that item is ~~being received or is under~~

~~consideration~~ **initially proposed and prior to the commencement of formal debate** by the Council.

- 12.1.2 Questions asked under this Rule shall be asked and answered at the time the matter relating to the question is under consideration.

(C) Cabinet Questions

Currently at Executive Rule 16 and 17 of the Constitution there is laid out a procedure for submission of questions for consideration by Cabinet. The increase and complexity of questions has resulted in a potential need to make a minor alteration to the timing of the current deadline to allow Portfolio Holders a proper opportunity to address a full response to questions. A proposed rewording to reflect a deadline time of 3.00pm (to replace the current 5.00pm) is proposed below.

In considering the amendment the Group further recommended that the proposals be reflected within the Committee and Council Procedure Rules and apply to all council, committee, panel etc meetings.

RECOMMENDATION TO COUNCIL: the Group proposed the adoption of the following amendments to the Constitution and that this be applied across Council, Executive and Committee Procedure Rules:

16. Public Questions

16.3 Order and notice of questions

16.3.1 Questions will be asked in the order notice of them was received, except that the Chair may group together similar questions.

16.3.2 A question may only be asked if notice has been given in writing, by fax or by electronic mail to the Monitoring Officer at publicquestions@harrow.gov.uk no later than ~~5.00 pm~~ **3.00pm** two clear working days before the day of the meeting. Each question must be ~~emailed~~ **submitted by the questioner, identifying their name, address, and where appropriate email address,** ~~give the name and address of the questioner~~ and **give the name of the Member of the Executive or Chair of the Committee** to whom it is to be put.

16.3.3 Without prejudicing 16.3.2 above, where a report is circulated after the normal Cabinet agenda despatch by supplemental agenda a question may be asked, if notice has been given in writing, by fax or by electronic mail to

the Monitoring Officer at publicquestions@harrow.gov.uk no later than **3.00pm ONE** clear working day before the day of the meeting. Each question must be emailed from the questioner's email address, give the name and address of the questioner and name of the Member of the Executive to whom it is to be put.

16.3.4 The Member of the Executive to whom any question is put may arrange for another Member of the Executive to answer on his or her behalf.

The Council takes no responsibility for questions which are sent and fail to reach the correct e-mail address, postal address or fax number.

17. Questions by Members

17.2 Notice of Questions

17.2.1 A Councillor may only ask a question under Rule 17.1 if either:

1. they have ~~given at least~~ **submitted such question by 3.00pm**, two clear working days ~~notice~~ **before the day of the meeting** in writing, by fax or e-mail, of the question to the Monitoring Officer; or
2. **Without prejudicing 17.1.1.1 above, where a report is circulated after the normal Cabinet agenda despatch by supplemental agenda a question may be asked, if notice has been given in writing, by fax or by e-mail to the Monitoring Officer no later than 3.00pm ONE clear working day before the day of the meeting; or**
3. the question relates to urgent matters, and they have the consent of the Portfolio Holder to whom the question is to be put and the content of the question is given to the Monitoring Officer by 12 noon on the day of the meeting.

17.2.2 ~~Questions will be answered strictly in accordance with the order in which they are received by the Monitoring Officer.~~ **Questions will be asked in the order agreed with the relevant Group Leader by the deadline for submission of such to the Monitoring Officer.**

(D) Personnel Appeals Panel – Change to Terms of Reference

The Constitution refers to the Personnel Appeals Panel having the following powers and duties:

- (a) To consider and decide upon appeals against disciplinary action;
- (b) To hear and determine locally, appeals against the outcome of Job Evaluation;
- (c) To hear and determine locally, appeals under the Council's Grievance Procedure.

RECOMMENDATION TO COUNCIL: The Group agreed the removal of (c) to reflect these have now moved to officer level delivery (Dignity at Work Procedure) and also the removal of (b) job evaluation appeals as this also no longer required Panel approval.

(E) Education Admissions & Awards Advisory Panel – Proposed Changes

The Constitution refers to the Education Admissions & Awards Advisory Panel as having the following powers:

1. To make recommendations in respect of granting a place (in a County Primary or High School) in accordance with expressed parental preference where, in the Panel's judgement an appeal under Section 423, Schedule 33, of the Education Act 1996 would be likely to be successful.
2. In respect of 1 above, to make recommendations with respect to determining the allocation of school places including, where appropriate, authority to exceed a published admissions limit or standard number.

Currently the Quorum for all meetings is the full membership of 3 Councillors. This has caused difficulty where a councillor is a governor and must then withdraw resulting in the need to suspend Standing Orders in relation to the Quorum.

The title of the Panel is also misleading as it presumes a responsibility to make Awards which the Panel no longer undertakes as a function and it suggested the Panel be renamed to reflect this.

RECOMMENDATION TO COUNCIL: the Group proposed the adoption of the following amendments to the operating arrangements and subsequent amendment of the Constitution:

- (a) *the quorum of the Panel be reduced to 2 Councillors.*
- (b) *The Panel be renamed "School Placement Admissions Panel".*

Section 3 – Legal, Risk and Financial Implications

There are no risks to the Council in approving changes to the Constitution as this serves as the framework for decision making processes for matters falling within its remit.

The legal implications are addressed within the report.

There are no financial implications associated with this report.

Section 4 - Contact Details and Background Papers

Contact: Jessica Farmer, Head of Legal Services

Tel: 020 8424 1889

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

Background Papers:

Council's Constitution