

# Changes and Appointments to Committees



**Report to:** Full Council

**Date:** 15 May 2025

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## Executive Summary

- A** This report sets out proposed changes to the committee structure and respective terms of reference, as well as the proposed allocation of seats consequent upon the same and in consideration of the 1 May 2025 Mark Hall by-election result. It seeks approval of the nominations to allocated seats as expressed by each political group to the Head of Paid Service.

## Recommended that Full Council:

- A** Agrees the new committee structure and terms of reference.
- B** Delegates to the Monitoring Officer authority to make any necessary or consequential changes to the constitution.
- C** Notes the political balance calculations for 2025/26 and agrees that committee seats are allocated to political groups as set out in Tables 1 and 2.
- D** Appoints Councillors as members of council committees as set out in Appendix A to the report.
- E** Appoints Chairs and Vice Chairs of committees as set out in Appendix A to the report.

## Reason for decision

- A** To rationalise the number and structure of committees, panels and working groups to streamline decision-making and increase efficiency, whilst retaining transparency and democratic accountability.
- B** To enable the council's committees to fulfil their functions as set out in legislation and the council's constitution.

**C** To comply with Section 15 of the Local Government and Housing Act 1989.

### **Other Options**

- A** In respect of the committee structure, to retain the current structure of committees, panels and working groups. This option was discounted as it would fail to achieve the requisite improvements.
- B** In respect of the allocation of seats to the political groups, the proposal in this report is required to ensure compliance with Section 15 of the Local Government and Housing Act 1989.

### **Background**

#### *Committee Structure*

1. Harlow operates an “executive” (i.e. Leader and Cabinet) model of governance. That means that Council appoints a Leader who, in turn, appoints a Cabinet. The Cabinet collectively, and the Leader and Cabinet members individually then discharge most of authority’s functions either directly, or through delegations to officers.
2. There are however some functions which cannot, in law, be discharged by an authority’s Cabinet. These include setting the authority’s budget and policy framework and discharging most regulatory functions like licensing and planning. For operational efficiency reasons, council’s delegate most of these functions to committees or officers. Harlow Council’s current approach to delegations has resulted in a structure comprising six committees, six sub-committees and at least twenty working groups, panels or partnership arrangements.
3. It is considered that there was a need to rationalise the number of bodies and clarify their role/remit, as it wasn’t always clear whether the bodies were operating as intended. The opportunity has also been taken to clarify and/or improve the drafting in the constitution in respect of some of the bodies that have been retained.
4. The revised structure and drafting are proposed for adoption to improve clarity and efficiency as an interim expedient, accepting the need for a more detailed and considered review of the constitution in the round.
5. The proposed new terms of reference are set out in appendices to this report which, if adopted, will replace the current equivalent sections in the constitution. The delegation proposed to the Monitoring Officer is required to ensure that any consequential amends to other parts of the constitution can be made, to ensure that the constitution operates correctly as a whole.

### Allocation of Seats

6. Councillors are divided into political groups. The provisions of the Local Government and Housing Act 1989 place a duty on the council to review the allocation between those groups of seats on committees of the council at its Annual Meeting.
7. The council is obliged to allocate seats to be occupied by its members to the political groups into which they are divided. Political groups then nominate the members of the council whom they wish to occupy those seats allocated to them. It is for council to appoint such Councillors to the seats allocated.
8. The political balance rules do not apply to Cabinet, or any bodies it establishes. Members of the Cabinet cannot be appointed to serve on the Scrutiny Committee.
9. Previously in Harlow, the process of nominating members to allocated seats included nominating a list of substitute members from each group to each committee. The Leaders of the Administration and Opposition have agreed that they should be able to appoint any of their members to substitute for their appointees on committees from time to time, subject to the rules requiring mandatory training and prohibiting portfolio holders from sitting on scrutiny committees. The delegation to the Monitoring Officer proposed at recommendation B above will be used to amend the constitution to give effect to this wish.

### **Issues/Proposals**

#### Committee Structure

10. The main changes proposed are as follows:

#### **Working Groups, Parties and Panels (Part 3 vii of the constitution)**

11. The Appointments Panel is abolished and its functions, as set out in the Officer Employment Procedure Rules, are placed with a new Appointments, Hearings & Determinations committee, more detail of which is provided below.
12. The Civic Awards Panel is retained but given committee status and moved to the section of the constitution that deals with committees (Part 3 v).
13. The Constitution Panel is abolished, and instead Cabinet's terms of reference require it to make arrangements for the review of the constitution from time to time with recommendations for change being made to Council to determine.
14. The Electoral Review Working Group is abolished as no such group is currently required in the manner envisaged in the constitution currently. There will undoubtedly be a need for a member forum to consider matters of a similar nature and make recommendations

to Council. The constitution already makes adequate provision for Cabinet to convene such a working group.

15. The Grants Panel is abolished. The Panel has not met for many years. Grant funding activity should be undertaken in accordance with the normal financial thresholds which determine whether a decision is to be taken by Council, Cabinet or an Officer.
16. Independent Remuneration Panel. This is not a council panel so whilst references to it in the constitution are appropriate, its inclusion within the section that deals with the terms of reference for council panels is not. It will be relocated to an appropriate section that deals with the member allowance scheme under the delegation to the Monitoring Officer sought through this report.
17. Shareholder Sub Committee is a Cabinet sub-committee and arrangements in respect of the same are within the gift of Cabinet to determine, but it is dealt with in this report for completeness. As a Cabinet sub-committee, its terms of reference are currently misplaced amongst a list of generic working groups, parties and panels in the constitution. Responsibility for discharging the Council's shareholder functions has been repatriated into the terms of reference for Cabinet (Part 3 iii).
18. Further, the current drafting in respect of the Shareholder Sub Committee focused solely on HTS and was overly prescriptive in terms of what Cabinet's role as a shareholder was. Constitutions must be flexible enough to cover a range of alternative service delivery vehicles and not, as is currently the case, focus on a single entity or a particular type. Shareholder (etc) functions are set out in law and in the articles of association (or equivalent) of individual entities and often change from time to time as such arrangements are entered into and/or evolve. It is unnecessary and counter-productive to try and capture/replicate such arrangements within the constitution itself. These two issues have been resolved within the proposed new Part 3 iii.
19. Investigatory and Disciplinary Appeals Panel and Investigatory and Disciplinary Independent Panel. These two panels, along with the Investigatory and Disciplinary Committee (IDC) form the three bodies that discharge the functions required by statute in relation to disciplinary matters affecting the Head of Paid Service, Monitoring Officer and Section 151 Officer (together, known as the designated statutory officers or DSOs).
20. Harlow's current arrangements placed these three bodies in two different sections of the constitution. In addition, the current drafting extends their reach beyond the DSOs and apply resource intensive processes to a much wider range of officers than statute requires or intended. Finally, there is no need for the separate Disciplinary Appeals Panel which currently exists, as the proposed Appointments, Hearings and Determinations Committee can properly discharge the functions of the same.
21. The proposed new drafting corrects these anomalies and adopts a set of tried and tested terms of reference for the IDC and Independent Panel.

## **Committees (Part 3 v of the Constitution)**

22. Audit and Standards Committee remains substantially the same, although some minor drafting amendments are proposed to improve clarity. The Hearing Sub-Committee is removed, and its functions are placed with the new proposed Appointments, Hearings and Determinations Committee. This approach also removes replication and allows greater flexibility to keep processes that apply to the hearing of member standards complaints up to date.
23. Scrutiny Committee remains substantially the same, although some minor drafting amendments are proposed to improve clarity and focus on its two distinct roles of pre and post decision scrutiny. Its current terms of reference are too wide in scope, not confining it to matters within the remit of the council. Greater emphasis is also placed in the proposed new drafting on the importance of work planning and prioritisation.
24. Call-in Sub-Committee has been removed as its membership was no different from the parent Scrutiny Committee so the two were (in effect and in law) the same entity. The drafting changes make clear that the Scrutiny Committee operates the call-in procedures and removes duplication in respect of the same by referring to other parts of the constitution where these are set out.
25. The committees that deal with planning, licensing and other regulatory matters are unchanged.
26. The Personnel Committee is removed, and its functions (except for approving staffing policies) are moved into the new Appointments, Hearings and Determinations Committee. More latitude is given to the Head of Paid Service to deal with staffing matters, such that the Appointments Hearings and Determinations Committee is only required to consider matters arising in respect of the Head of Paid Service or appeals against decisions of the Head of Paid Service. This follows best practice in most local authorities.
27. The approval of staffing policies now sits with Cabinet, except where those policies amount to a contractual term or condition or are a disciplinary policy in which case, Cabinet will make recommendations to Council.

### Allocation of Seats

28. As of 2 May 2025, the political composition of Council is as below:
  - a) Conservatives – 17 seats
  - b) Labour – 15 seats
  - c) Reform UK – 1 seat

29. A political group for the purpose of committee seat allocations requires at least two members. Any Councillor who is not part of a political group (as defined by the 1989 Act) is therefore, by law, not entitled to any seats under the political balance calculations.
30. It is proposed that, in accordance with the requirements of the 1989 Act, the allocation of ordinary committee seats to the council's political groups is as set out in Table 1.

**Table 1 – Political Balance Calculation 2025/26 – Ordinary Committees**

<b>Committee</b>	<b>Seats</b>	<b>Conservatives</b>	<b>Labour</b>
Audit and Standards Committee	9	5	4
Development Management Committee	9	5	4
Licensing Committee	11	6	5
Scrutiny Committee	9	5	4
Civic Awards Panel*	4	3	1
<b>Total</b>	<b>42</b>	<b>24</b>	<b>18</b>

\* To comprise the Chair and Vice Chair of the Council, and one representative from each group

## **Implications**

### **Equalities and Diversity**

The public sector equality duty (specific duty) requires the Council to consider how to positively contribute to the advancement of equality and good relations, and demonstrate 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on the administrative functions of the Council, Officers do not believe that it will have an impact on our equality duty however the council will ensure that all appointments are made fairly (i.e. no discrimination on the basis of protected characteristics) and that meetings are physically accessible to all.

### **Climate Change**

None.

### **Finance**

Budgets are in place to cover allowances for any appointments made. In the event that Council decides on the establishment of additional committees a budget will need to be identified to meet the cost of any special responsibility allowance associated with the new committee. I.

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### **Governance**

The Council is required to ensure that the allocation of seats to committees is compliant with the relevant provisions contained in the Local Government and Housing Act 1989 and Regulations made under that act.

The Regulations require that in determining the allocation of seats the council must apply the following four principles in order of priority as far as it is reasonably practicable to do so:

- a) that not all the seats on the body are allocated to the same political group;
- b) that the majority of the seats on the body is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
- c) subject to paragraphs (a) and (b) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of members of that group to the membership of the authority; and
- d) subject to paragraphs (a) to (c) above, that the number of the seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of members of that group to the membership of the authority.

Failure to appoint to committees sub committees and panels [and outside bodies] without the correct application of legislation could render them not quorate or unlawful. This would mean any decision taken by that committee may be open to challenge.

The recommendations in this report comply with the statutory requirements above and mitigate the risk to the Council of successful challenges to its governance and decision-making structure.

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### **Appendices**

Appendix A – Nominations from political groups

Appendix B – Section 3 Part iii of the constitution (Matters Reserved to Cabinet)

Appendix C – Section 3 Part v of the constitution (Committees)

**Background Papers**

None.

**Glossary of terms/abbreviations used**

None.