

## Council Assembly

Wednesday 11 June 2014

7.00 pm

Council Offices, 160 Tooley Street, London SE1 2QH

## Supplemental Agenda No.2

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### Contact

Lesley John on 020 7525 7228 or 020 7525 7222 or email: [lesley.john@southwark.gov.uk](mailto:lesley.john@southwark.gov.uk);  
[andrew.weir@southwark.gov.uk](mailto:andrew.weir@southwark.gov.uk); [constitutional.team@southwark.gov.uk](mailto:constitutional.team@southwark.gov.uk)  
Webpage: <http://www.southwark.gov.uk>

Date: 10 June 2014

<b>Item No.</b> 2.4	<b>Classification:</b> Open	<b>Date:</b> 11 June 2014	<b>Meeting Name:</b> Council Assembly
<b>Report title:</b>		Constitutional Changes 2014/15	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Proper Constitutional Officer	

## RECOMMENDATIONS

That council assembly considers the proposed constitutional changes set out in this report as recommended by the constitutional steering panel:

### Council assembly – programme motion and themed debate

1. That the changes identified in paragraphs 10 - 23 on the introduction of a programme motion at council assembly and a change to the themed debate be agreed.

### Leader's question time

2. That the introduction of a council meeting for the consideration of questions from the public to the leader, see paragraphs 24 – 26, be agreed
3. That the constitutional steering panel be requested to consider the detailed proposals for the leader's question time at a future meeting of the panel.

### Membership of the pensions advisory panel

4. That the proposals outlined in paragraph 27 to change the membership of the pensions advisory panel to two Labour and one Liberal Democrat place be agreed.

### Overview and scrutiny committee - Changes to the call-in threshold and reserves procedure rules

5. That the proposals outlined in paragraphs 28 – 29 to change existing procedure rules relating to the call-in threshold and the number of reserves each political group is entitled to on sub-committees be agreed.

### Cabinet member portfolios – Article 6 and member allowances scheme

6. That council assembly agrees the consequential changes to the constitution clarifying the position should two councillors be appointed to fill one cabinet portfolio position in a 'job share', i.e. sharing a single portfolio. The changes would be to Article 6 and clauses 5 and 6 of the member allowances scheme, as outlined in paragraphs 30 – 34.

### **Consequential changes**

7. That the proper constitutional officer make any necessary consequential changes to the constitution as a result of the above.

### **BACKGROUND INFORMATION**

8. All constitutional changes are considered by constitutional steering panel, which then recommends changes to council assembly. The constitutional steering panel considered the changes outline in this report on 9 June 2014 and recommended changes to the constitution as outlined in paragraphs 1 – 6 above. Changes to the constitution are generally agreed by council assembly, unless another body or individual is authorised to do so – see Article 1.15.

### **KEY ISSUES FOR CONSIDERATION**

9. This report includes a number of changes considered by the constitutional steering panel:
  1. Council assembly - Programme motion and themed debate
  2. Leader's question time
  3. Membership on the pensions advisory panel
  4. Overview and scrutiny procedure rules - Changes to the call-in threshold and reserves on sub-committees
  5. Cabinet member portfolios – Article 6 and member allowances scheme.

### **COUNCIL ASSEMBLY - PROGRAMME MOTION AND THEMED DEBATE**

10. The constitutional steering panel considered an alternative way of allowing a free flowing council assembly. This includes a programme motion and changes to the themed section to dispense with the need to have motions and the formal requirements to have movers and seconder of motions and amendments, which would allow for a more free flowing debate. Paragraphs below outline the proposed changes to the format of the themed session and how this would work at a meeting.

#### **Programme motion**

11. The evening before council assembly the whips meet with the Mayor to consider how the agenda for the meeting will work. The meeting considers which deputations will be considered, the number and order of motions and amendments and any other issues that arise. It is proposed to formalise this arrangement by introducing a programme motion.
12. The programme motion would also allow the meeting to prioritise particular items on the agenda such as reports, motions or question time, and alter the timings for certain parts of the agenda that are non-suspendable.. The programme motion will take the form of a procedural motion under council assembly procedure rule 1.6 to vary the order of business. An additional rule will be included in this section to make provision for the programme motion to be taken at each meeting.

13. On the evening of council assembly the Mayor will outline the programme motion and seek the meetings agreement. An example of a programme motion is set out in Appendix 1.

#### **Format of themed debate**

14. As is currently the case, the theme for each meeting would be set by the council assembly business panel and the themes would focus on a cabinet member's portfolio. Currently no debate would be allowed unless it was linked to a council plan, strategy or policy. In practice this does not take place, with the exception of the budget, so it is proposed to remove this requirement.
15. It is proposed that the relevant cabinet member would submit a motion on the theme which would appear in the main agenda. All other political groups on the council would be allowed to submit one amendment to the motion, which would be set out in a supplemental agenda. Current deadlines on the receipt of motions and amendments would apply. The cabinet member's motion and any amendments would not need to be seconded as they would be taken as formally seconded by the Mayor.
16. Rather than receiving questions or deputations from the public the meeting would encourage submissions from experts, community groups or local representatives; these could be oral or tabled at the meeting. No time limit would be applied to the new community evidence section of the meeting as it would be subject to a programme motion.
17. The same principles applied to the receipt and scope of questions from the public / deputation requests would apply to community evidence requests. In addition the Mayor could reject any submission if it was not relevant to the theme under discussion.
18. The themed section of the meeting would last for one hour. However, the Mayor has the discretion to vary timings and order as appropriate.

#### **Themed debate – at the meeting**

19. The debate would commence with submissions from experts, community groups or local representatives; these could be oral or tabled at the meeting. No time limit would be applied to this section of the meeting as it would be subject to a programme motion.
20. Thereafter the relevant cabinet member would present their motion on the theme (7 minutes), followed by the shadow cabinet member's response (5 minutes, including 2 minutes of which could be to present an amendment).
21. Following this the subject of the theme would be open to debate. Amendment(s) from other opposition groups on the council would be moved during this part of the meeting (and formally seconded).
22. As is currently the practice, the Mayor would seek to provide a balanced debate.
23. At the conclusion of the debate the meeting would vote on the motion and amendment(s).

## LEADER'S QUESTION TIME

24. The constitutional steering panel recommends that council assembly (constitutional meeting) agrees in principle to the introduction of a leader's question time. This would be held on one of the existing council assembly dates. This meeting would provide an opportunity for the community to submit questions to the leader on any matter in relation to which the council has powers. This report also recommends that a future constitutional steering panel receives a further report with detailed proposals for the leader's question time and considers any necessary constitutional changes. It is intended that the meeting will be a formal meeting of the council and officers will need to review the extent to which the existing procedure rules may apply.
25. In order not to fetter the council's decision making process it is suggested that the meeting should have the capacity to take late and urgent items, if this is needed.
26. The chair of the meeting would have the discretion to vary timings and order as appropriate. A programme motion could be moved at the beginning of the meeting.

## MEMBERSHIP OF THE PENSIONS ADVISORY PANEL

27. In 2013/14 the pensions advisory panel was established with a membership of:
  - three members (one from each political group) who have received the appropriate training; one of those members will chair the panel
  - three officers (the chief finance officer, an officer with specialist knowledge on the pensions scheme and the head of human resource or their equivalents)
  - two independent advisers (non-voting)
  - a representative appointed by the constituent trade unions representing beneficiaries (non-voting).

It is recommended that the councillor representation on the pensions advisory panel be revised to **two** members from the majority group and **one** member of the majority opposition. This would require a change to Part 3O of the constitution.

## OVERVIEW AND SCRUTINY PROCEDURE RULES - CHANGES TO THE CALL-IN THRESHOLD AND THE NUMBER OF RESERVES ON SUB-COMMITTEES

28. The overview and scrutiny procedure rules currently require the chair or vice-chair of the overview and scrutiny committee plus three members of the committee (including education representatives for the purpose of education decisions only) to call-in a decision. Following the election and the proposed change to the membership of overview and scrutiny committee, it is recommended that the numbers required to call-in those executive decisions listed in procedure rule 22.1 be revised to **three** members of the committee. This change would maintain the position that existed prior to the borough wide elections whereby the majority opposition group were able to call-in decisions. This would require a change to overview and scrutiny procedure rule 22.3, as outlined in Appendix 3 (see attached).

29. It is also recommended to amend the overview and scrutiny procedure rule on the number of reserves allowed to be appointed to scrutiny sub-committees so that the number of places is equal to the number of members on the sub-committee. Currently this is one fewer than number of places. The change will increase the pool of members able to attend sub-committees and ensure quorate meetings. This change is in line with the existing provisions for the number of reserves on the main overview and scrutiny committee. The change is set out below:

2.4 Each political group is entitled to nominate reserve members to overview and scrutiny committee and its sub-committees. The number of reserve member seats that each political group is entitled to nominate is equal to the number of places each group holds on overview and scrutiny committee or its sub-committees ~~and one fewer than the number of places each group holds on each of the sub-committees, subject to a minimum of one.~~

### **CABINET MEMBER PORTFOLIOS – ARTICLE 6 AND MEMBER ALLOWANCES SCHEME**

30. Officers reported to the constitutional steering panel on a number of consequential changes to the constitution clarifying the position should two councillors be appointed to fill one cabinet portfolio position in a 'job share', i.e. sharing a single portfolio. Within the portfolio, it is anticipated that the leader would split the responsibilities between the two members to enable clear lines of accountability on different issues and enable clarity around individual decision making.
31. The total number of the cabinet allowed by statute is 10, i.e. the leader and not more than nine cabinet members. For the purposes of calculating the size of the cabinet and ensuring it does not go over 10, each member of the cabinet, whether in a job share or not, would be treated as a single person. If the leader appoints members to a job share he must ensure that the total number of cabinet members does not exceed 10. It is envisaged that at meetings of the cabinet or other meetings where the cabinet is required, members in a job share will be treated as individual members, with equal voting powers to other members of the cabinet not in a job share.
32. It is recommended that the following additional clauses be included in Article 6.4:

The leader can appoint two councillors to share one portfolio position, provided the total number of cabinet members does not exceed nine councillors. Within that portfolio, the leader will split the responsibilities between the two councillors to enable clear lines of accountability on different issues and enable clarity around individual decision making.

Both members in a job share will be able to attend, participate in and vote at cabinet as full cabinet members.

33. Councillors in a job share will share a special responsibility allowance (SRA). An amendment to the member allowance scheme will need to be made as below:

At the end of paragraph 5 **insert** new paragraph: “Where the leader of the council has appointed two members to the cabinet in a job share, the SRA is split between the members with 50% payable to each member.”

At the end of paragraph 6 **insert**: “Where cabinet members are appointed in a job share, the allowances for variation in hours set out above are doubled.”

34. Currently if a matter affects more than one portfolio, subject to the leader’s power to vary the scheme of executive delegation, the matter would be referred to full cabinet for consideration. This is set out in Part 3D setting out the matters reserved for decision by individual cabinet members. In the event an issue does not clearly fall into either part of a shared cabinet portfolio, it is proposed that the leader would determine who should deal with the matter. It is recommended that a footnote is added to the first paragraph in the introduction clarifying this and stating:

In the event an issue affects both parts of the shared cabinet portfolio the leader of the council will decide who deals with it.

### **Advice on constitutional changes**

35. All constitutional changes are considered by the constitutional steering panel, which then recommends changes to council assembly. Changes to the constitution are generally agreed by council assembly, unless another body or individual is authorised to do so – see Article 1.15.

Changes to the constitution are shown as follows:

- Additions (shown as underlined)
- Deletions (shown with a ~~striketrough~~).

### **Community impact statement**

36. The proposed reformatting of the themed debate to provide for a more free flowing debate recommends changes in the way local people can get involved in the debates by way of written or oral submissions from experts, community groups or local representatives rather than the more formal deputation requests and questions. The meeting’s procedure rules will still retain provisions enabling people to submit deputation requests and public questions on other issues. This report recommends a new leader’s question time however the detailed changes necessary to introduce such an event will be considered in a future report. The other changes considered in this report will have no direct impact on local people from adoption of these changes to the council’s constitution. The constitution enables people, including the local community where relevant, to understand the role that they can play in the decision making of the council and how the council will safeguard high standards of conduct amongst members and officers.

### **Resource implications**

37. There are no specific budget implications from the proposals set out in this report. The recommended changes can be maintained within existing resources. There will be a further report on the leader’s question time.

38. The constitution is produced in binder form with loose leaf pages and dividers. This means that any additional costs arising from the reproduction of small sections of the constitution are reduced compared to the reprinting of the whole constitution. Therefore, it is anticipated that the cost can be contained within existing budgets.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

39. Any legal issues are outlined in the body of the report.

### **REASON FOR LATENESS**

40. The constitutional steering panel for 2014/15 was only established by the annual meeting (mayor making) on 7 June 2014. The first meeting of the panel was held on 9 June 2014 which recommended the changes set out in this report.

### **REASON FOR URGENCY**

41. This report includes a number of urgent constitutional changes that council assembly is asked to adopt following the borough wide elections. The changes are recommended to ensure the efficient and effective running of the council's decision making processes. For example, the report recommends changes to the scrutiny call-in threshold to maintain the position that existed prior to the elections and this decision is required because executive decisions could potentially be taken immediately following this council assembly. The report also contains changes to the council assembly procedure rules which will apply to the next meeting in July 2014 and officers need sufficient time to change council processes so the new rules can be applied at the next meeting and publicised to councillors and on the council's website.

### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Southwark Constitution <a href="http://www.southwark.gov.uk/info/10058/about_southwark_council/375/councils_constitution">http://www.southwark.gov.uk/info/10058/about_southwark_council/375/councils_constitution</a>	Council Offices, 160 Tooley Street, London SE1 2QH	Constitutional Team Email: <a href="mailto:constitutional.team@southwark.gov.uk">constitutional.team@southwark.gov.uk</a> Tel: 020 7525 7228

### **APPENDICES**

<b>Appendix</b>	<b>Title</b>
Appendix 1	Example of a Programme Motion
Appendix 2	Revised Council Assembly Procedure Rule 2.7 – Themed debated
Appendix 3	Revised Overview and Scrutiny Procedure Rules – Call-in Threshold



**AUDIT TRAIL**

<b>Lead Officer</b>	Ian Millichap, Constitutional Manager	
<b>Report Author</b>	Lesley John, Principal Constitutional Officer	
<b>Version</b>	Final	
<b>Dated</b>	10 June 2014	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Director of Legal Services	Yes	Incorporated in the report
Strategic Director of Finance and Corporate Strategy	No	No
<b>Cabinet Member</b>	No	No
<b>Date final report sent to Constitutional Team</b>		10 June 2014

## APPENDIX 1

## EXAMPLE OF A PROGRAMME MOTION

**MAYOR** - Following a meeting with the group whips, I submit the following programme motion for agreement:

**Deputations**

In line with council assembly procedure rules I move that we only hear x deputations this evening. The deputations to be heard are:

1. X
2. XX
3. XXX

As the deputation on X has young children involved we shall consider that deputation first this evening, followed by the motion and amendment on the same subject.

**Amendments**

I have also agreed to receive two revised Amendments, Amendment X and Amendment X, which has been circulated around the chamber.

**Community evidence**

The following groups have requested to be heard, and it is proposed that we give them 3 minutes in which to speak:

1. X
2. XX
3. XX

**Order of Motions**

That Motion XX concerning XX will be considered first this evening.

There has also been a change in speakers on motion X and Amendment X, Councillor X will now second the motion and Councillors X and X will move and second Amendment X

Is it agreed we suspend the relevant procedure rules?

**Note:** *Relevant procedure rules will be suspended:*

- CAPR 1.14 (4) Order of debate – varying order
- CAPR 1.14 (15) Alteration of an amendment
- CAPR 2.6(11) No more than three deputations shall be considered at any one meeting.

## APPENDIX 2

## REVISED COUNCIL ASSEMBLY PROCEDURE RULE 2.7

## THEMED DEBATE

## 2.7 THEMED DEBATES

**Theme**

1. The theme for each meeting will be set by the council assembly business panel including the ~~annual state of the borough~~, budget and other themes focused on a cabinet member's portfolio.

~~Themes will have been subject to community engagement activities in such forums as community councils or scrutiny committees.~~

2. No debate shall be allowed at a themed meeting unless it is linked to a council plan, strategy or policy. The plan, strategy or policy should have been clearly signposted to residents and members prior to the meeting so they are able to connect the debate to plans and monitor its implementation.

3. One hour shall be allocated for the themed debate. The Mayor shall have the discretion to vary timings as appropriate.

**Community evidence**

4. Submissions (written or oral) from experts, community groups or local representatives may be heard or tabled at the meeting. Submissions will be time limited and subject to a programme motion

**Order of debate**

5. The order of business of the debate will be:
  - Community evidence
  - Cabinet member has ~~10~~ 7 minutes in which to present the theme, plan or strategy
  - Shadow cabinet member has 5 minutes in which to reply (2 minutes of which may be to present an amendment)
  - Debate then open to any member who indicates to speak.  
(All recognised groups on the council having had the opportunity to formally propose one amendment. No seconding or formal seconding required for motion or amendments)
  - At the conclusion of the debate (or time limit) the meeting will take a separate vote on the motion and amendment(s).
  - ~~Public pre-submitted questions on the theme of the meeting (maximum of 15 minutes)~~
  - ~~Members' motions on the cabinet theme using present principles to allow sufficient political balance and for political groups to hold cabinet to account.~~

6. ~~One hour shall be allocated for the themed debate. The Mayor shall have the discretion to vary timings as appropriate.~~

### **Public involvement and participation**

7. The theme of the meeting shall be actively promoted and residents encouraged to participate.

### **Public evidence on themed debate**

8. The Mayor may reject any evidence if it is not relevant to the theme, plan, strategy or policy under discussion.

### **Scope**

9. The Mayor in consultation with the monitoring officer may reject evidence if it
- is a request from a group of people who have alternative means of expressing their views through recognised channels, e.g. employees of the authority or trade unions representing staff employed by the authority
  - is not about a matter for which the council has powers or duties or which affects Southwark
  - is defamatory, frivolous or offensive
  - requires the disclosure of confidential or exempt information
  - concerns a planning or licensing application
  - raises a grievance for which there are other established processes for resolution
  - relates to an investigation by (whether completed or not), or ruling of, the standards committee or sub-committee insofar as the deputation relates to the behaviour or conduct of an individual member or members.

### **Form of request**

10. Each request must provide the name and address of the persons/group requesting to be heard and a brief summary of the subject matter of their request.
11. Any written representations shall provide the same information.

### **Deadlines**

12. An application to be considered shall be submitted by a representative of the group in writing to the proper constitutional officer no later than three clear working days before the day of the council assembly meeting. The date and time of receipt of each request will be recorded. Rejected requests will include reasons for rejection.

### **Agenda**

13. Details of relevant request will be included on the agenda papers for the meeting of the council assembly.
14. If the matter is not dealt with by the meeting, the matter shall be referred without debate to the relevant cabinet member who shall, after consideration, respond with an open reply to the sender.
15. The cabinet member may invite relevant groups to actively participate before, during and after a themed meeting.

**Public questions on themed debate**

- ~~16. The Mayor may reject a question if it is not relevant to the theme, plan, strategy or policy under discussion.~~
- ~~17. The time during which public questions shall be taken at a themed meeting shall not exceed 15 minutes and shall be conducted under the existing rules for public questions. Normal deadlines shall apply for the submission of questions from the public.~~

**Members' motions**

- ~~18. All motions shall be relevant to the topic under discussion and shall be conducted under the existing rules for members' motions. Normal deadlines shall apply for the submission of members' motions.~~
- ~~19. The order of motions and timings shall be determined by the Mayor.~~

## REVISED OVERVIEW AND SCRUTINY PROCEDURE RULES

### CALL-IN THRESHOLD

#### 21. Call-in

- 21.1 The overview and scrutiny committee can “call-in” a cabinet decision which has been made but not yet implemented. This enables the overview and scrutiny committee to consider whether the decision is appropriate. The committee may recommend that the decision maker reconsider the decision.
- 21.2 Requests for call-in should normally only be made if there is evidence that the decision maker did not take the decision in accordance with the principles of decision making as set out in the constitution:
- a) proportionality (i.e. the action must be proportionate to the outcome)
  - b) due consultation and the taking of professional advice from officers
  - c) respect for human rights
  - d) presumption in favour of openness
  - e) clarity of aims and desired outcomes
  - f) the link between strategy and implementation must be maintained
  - g) decision making generally should have reference to the policy framework and be in accordance with the budget.

#### 22. Procedure to call-in a decision

- 22.1 When a decision is made by the cabinet or an individual member of the cabinet, or a committee of the cabinet, or an executive decision is taken by a community council, or a key decision is made by an officer with delegated authority, the decision shall be published, normally within two clear working days of being made. All members will be sent copies of the records of all such decisions within the same time scale, by the person responsible for publishing the decision.
- 22.2 That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless the overview and scrutiny committee objects to it and calls it in.
- 22.3 During that period, the scrutiny officer shall call-in a decision for scrutiny if so requested by ~~the chair or vice chair of the overview and scrutiny committee,~~ plus three members of the committee, including education representatives for the purpose of education decisions only.
- 22.4 A member serving on a community council (who is also a member of the overview and scrutiny committee) who participates in taking an executive

decision shall not sign a call-in request on the same decision (thus avoiding any conflict of interests).

- 22.5 ~~In the event that the chair or vice-chair of overview and scrutiny decides not to support a call-in request received within deadline and signed by three members of the committee, they are required to set out their reasons in writing, and this letter will be circulated to members and other interested stakeholders.~~
- 22.6 A valid request for call-in must contain the requisite number of signatures and give reasons for the call-in. In particular, the request must state whether or not the members believe that the decision is outside the policy or budget framework.

**COUNCIL ASSEMBLY AGENDA DISTRIBUTION LIST (OPEN)  
(SUPPLEMENTAL AGENDA)  
MUNICIPAL YEAR 2014/15**

**NOTE:** Original held by Constitutional Team; all amendments/queries to  
Lesley John Tel: 020 7525 7228/7236

<b>ONE COPY TO ALL UNLESS OTHERWISE STATED</b>	<b>Copies</b>	<b>To</b>	<b>Copies</b>
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Aine Gallagher, Labour Group Office	<b>1</b>	Ground Floor, Tooley Street	
William Summers, Liberal Democrat Group Office	<b>1</b>		
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<b>Press</b>	<b>2</b>		
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<b>Corporate Management Team</b>	<b>5</b>		
Eleanor Kelly			
Deborah Collins			
Romi Bowen			
Duncan Whitfield			
Gerri Scott			
<b>Other Officers</b>	<b>4</b>		
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Robin Campbell	<b>1</b>		
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Ian Millichap	<b>1</b>		
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		<b>Total:</b>	<b>110</b>
		<b>Last Updated: May 2014</b>	