

Council Assembly (Ordinary)

Wednesday 10 July 2013

7.00 pm

Walworth Academy, 34 - 40 Shorncliffe Road, SE1 5UJ.

Councillors are summoned to attend a meeting of the Council to consider the business contained herein

Eleanor Kelly
Chief Executive

INFORMATION FOR MEMBERS OF THE PUBLIC

Access to information

You have the right to request to inspect copies of minutes and reports on this agenda as well as the background documents used in the preparation of these reports.

Babysitting/Carers allowances

If you are a resident of the borough and have paid someone to look after your children, an elderly dependant or a dependant with disabilities so that you could attend this meeting, you may claim an allowance from the council. Please collect a claim form at the meeting.

Access

The council is committed to making its meetings accessible. Further details on building access, translation, provision of signers etc for this meeting are on the council's web site: www.southwark.gov.uk or please contact the person below.

Contact

Lesley John on 020 7525 7228 or 020 7525 7222 or email: lesley.john@southwark.gov.uk;
andrew.weir@southwark.gov.uk; constitutional.team@southwark.gov.uk

Date: 28 June 2013



Council Assembly (Ordinary)

Wednesday 10 July 2013
7.00 pm
Walworth Academy, 34 - 40 Shorncliffe Road, SE1 5UJ.

Order of Business

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PART A - OPEN BUSINESS

1. PRELIMINARY BUSINESS

1.1. ANNOUNCEMENTS FROM THE MAYOR, MEMBERS OF THE CABINET OR CHIEF EXECUTIVE

To receive any announcements from the Mayor, members of the cabinet or the chief executive.

1.2. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE MAYOR DEEMS URGENT

In special circumstances an item of business may be added to an agenda within seven working days of the meeting.

1.3. DISCLOSURE OF INTERESTS AND DISPENSATIONS

Members to declare any interests and dispensations in respect of any item of business to be considered at this meeting.

1.4. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

1.5. MINUTES

To approve as a correct record the open minutes of the annual and extraordinary council assembly meetings held on 22 May 2013 (to be circulated separately).

2. ISSUES RAISED BY THE PUBLIC

2.1. PETITIONS

To formally receive any petitions lodged by members of the council or the public which have been received in advance of the meeting in accordance with council assembly procedure rules.

2.2. PUBLIC QUESTION TIME

The deadline for public questions is Midnight, Thursday 4 July 2013. Questions can be emailed to constitutional.team@southwark.gov.uk.

Questions from the public will be distributed in a supplemental agenda.

2.3. DEPUTATION REQUESTS ON THE THEME

The deadline for deputation requests is Midnight, Thursday 4 July 2013. Deputations can be emailed to constitutional.team@southwark.gov.uk.

Deputation requests will be distributed in a supplemental agenda.

3. THEMED DEBATE

3.1. CABINET MEMBER STATEMENT

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The cabinet member for finance, resources and community safety to present the theme for the meeting.

3.2. QUESTIONS FROM THE PUBLIC ON THE THEME

The deadline for public questions on the theme is Midnight, Thursday 4 July 2013. Questions can be emailed to constitutional.team@southwark.gov.uk.

Questions from the public will be distributed in a supplemental agenda.

3.3. MEMBERS' MOTIONS ON THE THEME

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To consider the following motions on the theme submitted by members of the council:

- Putting Residents' Welfare First
- Welfare Reform.

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	The deadline for deputation requests is Midnight, Thursday 4 July 2013. Deputations can be emailed to constitutional.team@southwark.gov.uk .	
	Deputation requests will be distributed in a supplemental agenda.	
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7.	REPORT(S) FOR DECISION FROM THE CABINET	
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Council assembly to note the progress in 2012/13 against the ten fairer future promises and portfolio performance objectives in the Council Plan and to agree the Council Plan's cabinet member portfolio objectives and targets for 2013/14.

8. OTHER REPORTS

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Council assembly to adopt the Southwark Statement of Gambling Licensing Policy for 2013-2016.

8.2. TREASURY MANAGEMENT PERFORMANCE 2012/13 ANNUAL REPORT AND PRUDENTIAL INDICATORS	91 - 100
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Council assembly to note the 2012/13 outturn report on treasury management and prudential indicators.

8.3. CONSTITUTIONAL REVIEW 2013/14	101 - 188
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Council assembly to consider several constitutional issues referred from the constitutional steering panel.

9. AMENDMENTS

Any member of the council may submit an amendment to a report or motion on the agenda. The amendments will be circulated to all members in a supplemental agenda.

ANY OPEN ITEMS IDENTIFIED AS URGENT AT THE START OF THE MEETING

EXCLUSION MOTION (IF NECESSARY)

Item No.

Title

Page No.

The following motion should be moved, seconded and approved if the council wishes to exclude the press and public to deal with reports revealing exempt information:

“That under the access to information procedure rules of the Southwark constitution, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in section(s) 1 – 7 of paragraph 10.4 of the procedure rules.”

PART B – CLOSED BUSINESS

ANY CLOSED ITEMS IDENTIFIED AS URGENT AT THE START OF THE MEETING

Date: 28 June 2013

Item No. 3.1	Classification: Open	Date: 10 July 2013	Meeting Name: Council Assembly
Report title:		Themed Debate: Welfare Reform	
Ward(s) or groups affected:		All	
From:		Proper Constitutional Officer	

BACKGROUND INFORMATION

Introduction

1. On 4 December 2012 the council assembly business panel met to agree the themes for the themed section of council assembly meetings for the 2013/14 municipal year. The council assembly business panel agreed that the theme for the themed section of council assembly in July 2013 should be 'Welfare Reform'.

What happens at the meeting?

2. At the meeting the agenda will be:
 - Cabinet member has 10 minutes in which to present the theme, plan or strategy
 - Shadow cabinet member has 5 minutes in which to reply
 - Public pre-submitted questions on the theme of the meeting (maximum of 15 minutes)
 - Member's motions on the cabinet theme using present principles to allow sufficient political balance and for political groups to hold cabinet to account.

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

Public questions on themed debate

3. The deadline for public questions is Midnight, 4 July 2013. To find out more visit www.southwark.gov.uk/democracy or to submit a public question email constitutional.team@southwark.gov.uk.
4. The Mayor may reject a question if it is not relevant to the theme, plan, strategy or policy under discussion.
5. 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.

Members' motions

6. 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.
7. The order of motions and timings shall be determined by the Mayor.

Themes

8. The themes for each meeting are set by the council assembly business panel.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Constitution	160 Tooley Street London SE1 2QH	Constitutional Team constitutional.team@southwark.gov.uk 020 7525 7228

APPENDICES

No.	Title
None	

AUDIT TRAIL

Lead Officer	Alexa Coates, Principal Constitutional Officer	
Report Author	Lesley John, Constitutional Officer	
Version	Final	
Dated	24 June 2013	
Key decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer title	Comments sought	Comments included
Strategic Director Finance & Corporate Services	No	No
Director of Legal Services	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team	24 June 2013	

Item No. 3.3	Classification: Open	Date: 10 July 2013	Meeting Name: Council Assembly
Report title:		Motions on the Theme – Welfare Reform	
Ward(s) or groups affected:		All	
From:		Proper Constitutional Officer	

BACKGROUND INFORMATION

During the themed debate, council assembly may debate motions. Members' motions on the theme will use present principles to allow sufficient political balance and for political groups to hold cabinet to account.¹

Members are limited to moving one motion and seconding one motion in the themed section of the meeting.

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.

The order in which motions are debated and timings shall be determined by the Mayor.²

1. **MOTION FROM COUNCILLOR TIM McNALLY** (Seconded by Councillor Adele Morris)

Putting Residents' Welfare First

Council assembly:

1. Recognises that the annual welfare benefits bill in the UK is £116.1bn, equivalent to 17% of all government expenditure.
2. Understands that reform of the nation's welfare system is overdue, and would be a necessary element of any government's agenda in the current economic climate.
3. However, recognises that many Southwark residents are being affected by the welfare reforms, and believes that the council has a vital role to play in protecting particularly its most vulnerable residents from excessive financial burdens through effective use of its discretionary powers and funding.
4. Also believes it is vital that residents are properly informed about the extent of the reforms, who they will affect, and what support is available to them, and regrets the fact that there has been a certain amount of misunderstanding and misinformation about some of the reforms.

¹ Council assembly procedure rule 2.7 (3)

² Council assembly procedure rule 2.7 (9) and (10)

5. Therefore calls on cabinet to establish a cross-party welfare reform working group as soon as possible, including opposition councillors and relevant council officers, through which the council can objectively assess the effects of welfare changes in Southwark, ensure that the council is using its staff and resources to help the most vulnerable, and collectively lobby the government.

Note: If the motion is agreed, any proposals will be submitted to the cabinet for consideration.

2. MOTION FROM COUNCILLOR NEIL COYLE (Seconded by Councillor Cleo Soanes)

Welfare Reform

Council assembly:

1. Is gravely concerned by the impact the Tory Liberal Democrat government's welfare reforms is having on Southwark's most vulnerable residents.
2. Notes that more than 10% of Southwark's population are affected by the range of welfare cuts. More than 4,000 by the bedroom tax, over 24,000 by the government's £2.8m council tax benefit cut (including over 16,000 who are in work), thousands by changes to DLA beginning this year and hundreds more by the benefit cap from later this year.
3. Notes that local advice and support organisations are seeing a steep rise in demand for help. Over 500 people were fed by foodbanks in Southwark in April alone (compared with 100 in April 2012) and the provider estimates 30 tons of food will need to be distributed to meet demand this year. 10% of the recipients are in work. Southwark's Citizen Advice Bureaus saw a 40% jump in demand for help this year but legal aid cuts mean the loss of the equivalent of 4 full time advisors across Southwark Legal Advice Network.
4. Notes the action taken by the council to deal with these changes including:
 - Labour's £800,000 Hardship Fund; £400k of which is targeted towards local disabled people and carers
 - An extra £400,000 went into helping people downsize homes to avoid the bedroom tax
 - The Social Fund replacement scheme (the Southwark Emergency Support Scheme)
 - More than 700 people have been supported face to face at the partnership events – Southwark's partnership work is being held up by (national) Citizens Advice as an example of good practice and a model for other councils to adopt.
5. Regrets Simon Hughes's unequivocal support for the government's welfare reforms despite claiming the benefits cap would "drive families apart". It also regrets that Simon Hughes has dismissed reports of a fivefold increase in people claiming discretionary housing payments as "alarmist". It regrets that he has refused to meet with local organisation such as Cooltan Arts to discuss the impact of the reforms and that he missed the "Frontline Welfare" event despite being specifically asked to attend.

6. Calls on cabinet to:

- Continue to work constructively with advocacy groups in the borough to ensure we are able to continue to support our most vulnerable residents
- Lobby the Department of Work and Pensions for increased funding for discretionary housing payments
- Continue to challenge Simon Hughes and the Liberal Democrats regarding their role in enabling the Government's welfare changes.

Note: If the motion is agreed, any proposals will be submitted to the cabinet for consideration.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Member Motions	Constitutional Team 160 Tooley Street London SE1 2QH	Andrew Weir 020 7525 7222

AUDIT TRAIL

Lead Officer	Alexa Coates, Principal Constitutional Officer
Report Author	Lesley John, Constitutional Officer
Version	Final
Dated	25 June 2013

Item No. 5.2	Classification: Open	Date: 10 July 2013	Meeting Name: Council Assembly
Report title:		Motions	
Ward(s) or groups affected:		All	
From:		Proper Constitutional Officer	

BACKGROUND INFORMATION

The councillor introducing or “moving” the motion may make a speech directed to the matter under discussion. This may not exceed five minutes¹.

A second councillor will then be asked by the Mayor to “second” the motion. This may not exceed three minutes without the consent of the Mayor.

The meeting will then debate the issue and any amendments on the motion will be dealt with.

At the end of the debate the mover of the motion may make a concluding speech, known as a “right of reply”. If an amendment is carried, the mover of the amendment shall hold the right of reply to any subsequent amendments and, if no further amendments are carried, at the conclusion of the debate on the substantive motion.

The Mayor will then ask councillors to vote on the motion (and any amendments).

IMPLICATIONS OF THE CONSTITUTION

The constitution allocates responsibility for particular functions to council assembly, including approving the budget and policy framework, and allocates to the cabinet responsibility for developing and implementing the budget and policy framework and overseeing the running of council services on a day-to-day basis. Therefore any matters that are reserved to the cabinet (i.e. housing, social services, regeneration, environment, education etc) cannot be decided upon by council assembly without prior reference to the cabinet. While it would be in order for council assembly to discuss an issue, consideration of any of the following should be referred to the cabinet:

- to change or develop a new or existing policy
- to instruct officers to implement new procedures
- to allocate resources.

Note: In accordance with council assembly procedure rule 2.10 (7) & (8) (prioritisation and rotation by the political groups) the order in which motions appear in the agenda may not necessarily be the order in which they are considered at the meeting.

¹ Council assembly procedure rule 1.14 (9)

1. **MOTION FROM COUNCILLOR MICHAEL BUKOLA** (Seconded by Councillor The Right Revd Emmanuel Oyewole)

Drummer Lee Rigby and Faith Communities in Southwark

Council:

- Registers its abhorrence at the appalling and savage murder of Drummer Lee Rigby on the streets of south-east London on 22 May 2013, and extends sympathy to his family.
- Welcomes the critical response to the murder by UK Islamic organisations including the Southwark Muslim Forum, and the cohesion shown by Londoners in condemning the attack, and rejects the divisive agenda of far-right groups who seek to use the murder for their own political ends.
- Recognises the concern from the Islamic community in Southwark about the reported rise in Islamophobic incidents since the murder, including a number of attacks on mosques across the country.
- Notes the excellent work within the Old Kent Road Mosque and Islamic Cultural Centre in bringing together Muslims of all races, and acting as a meeting place for visiting Nigerian Muslims to London.
- Looks forward to the continued involvement of the mosque within Southwark's Multi-Faith Forum.
- Reasserts its support for the charity Help for Heroes and the work it does to support wounded service men and women and their families.

Note: If the motion is agreed, any proposals will be submitted to the cabinet for consideration.

2. **MOTION FROM COUNCILLOR LISA RAJAN** (Seconded by Councillor David Hubber)

Surrey Docks Brown Brick

Council:

1. Notes the distinctive brown brick paving in parts of Surrey Docks and Rotherhithe wards and its contribution to the character of the area. Also notes that this style of paving was introduced during the development of the area by the LDDC in the 1980s, is used extensively in the area and is much valued by local residents.
2. Recognises that many of the roads and pavements in the areas around Greenland Dock, South Dock, Canada Water, Surrey Water, Russia Dock Woodland and the Albion Channel have been adversely affected by subsidence issues due to their construction on land reclaimed from historic docks and waterways in the area, and that this has manifested itself in paving that is often severely disrupted by tree roots and subterranean ironworks.

3. Also recognises that the LDDC's over-zealous tree planting strategy in the 1980s, in which they assumed a much lower survival rate than turned out to be the case, has led to a higher than expected number of London Planes at higher than usual densities in the area, and that the height and root growth network of these trees compounds the paving disruption problems.
4. Acknowledges that the council's approach to paving and road repairs in this area has been reactive and ad hoc, and has largely involved removing the brown brickwork and replacing it with red, purple or black tarmac. In many instances, the disruptive tree roots were not shaved or cut, and consequently re-erupt through the tarmac within 18 months of the repair. An alternative approach on Rope Street, funded by Rotherhithe Community Council, levelled the ground and re-laid the original brown brickwork, and maintained the valued character of the street.
5. Welcomes the Greenland Dock Subsidence Feasibility Study, prepared by Mouchel, commissioned by Southwark Council, funded by Rotherhithe Community Council Cleaner Greener Safer fund and proposed by local residents.
6. Also welcomes the site meeting on 7th May 2013 attended by the strategic director of environment and leisure, senior highways officers and residents to discuss the problem.
7. Endorses the findings of the Greenland Dock Feasibility Study and calls on cabinet to commit to completing the actions identified, including:
 - a) carrying out a more detailed ground investigation and geotechnical report to review ground conditions
 - b) develop over-arching mutli-disciplinary strategy and valued engineered remedial options for the site
 - c) develop a tree strategy for tree works, involving consideration of tree pit materials, tree species, removal/replacement and tree root treatment.
8. Also calls on cabinet to commits to a coordinated and agreed strategy on paving repairs in the area, as discussed with the strategic director of environment and leisure, that minimises the use of tarmac for repairs and commits, wherever possible, to reusing the original brown brickwork.

Note: If the motion is agreed, any proposals will be submitted to the cabinet for consideration.

3. **MOTION FROM COUNCILLOR MARK GLOVER** (Seconded by Councillor Nick Dolezal)

East Dulwich and Rye Lane Crown Post Offices

1. Council assembly is concerned that the Post Office is planning to downgrade Crown Services at Rye Lane and East Dulwich to retail operators.
2. Council assembly notes that at present the Post Office does not have any retail partners for Rye Lane and East Dulwich Crown Post Offices and is concerned that this move will lead to a relocation of offices, provide an inferior Post Office Service and will have a hugely detrimental impact on the quality of specialist services for local residents. It also believes it will lead to the recruitment of new staff on significantly lower pay, terms and conditions. Moreover the specialist trained and committed services and staff will be lost in these offices.
3. Council assembly offers its support to the campaign to protect the Rye Lane and East Dulwich Post Offices in these locations and calls on cabinet to:
 - Work with local councillors to write to the Parliamentary Under-Secretary of State with responsibility for Post Offices, informing them of the concerns regarding Rye Lane and East Dulwich Crown Post Offices
 - Seek assurances from the Minister that any successful franchisees for Crown Post Offices will be strongly encouraged to pay their staff the London Living Wage.

Note: If the motion is agreed, any proposals will be submitted to the cabinet for consideration.

4. **MOTION FROM COUNCILLOR ELIZA MANN** (Seconded by Councillor Anood Al-Samerai)

Door Entry For The Dickens Estate

1. Council is pleased that door entry systems are now being included again in major works plans.
2. Council recognises that residents of Wade House, Bardell House, Tupman House and Micawber House have experienced serious problems with crime, rough sleepers and vandalism.
3. Council is disappointed that these blocks were not included in the cabinet report despite concerns being raised by ward councillors and the local police in 2012 and despite a high number of crime reports.
4. Council calls on the cabinet to allocate extra funding to these blocks which will save money in the long run from crime and anti-social behaviour.

Note: If the motion is agreed, any proposals will be submitted to the cabinet for consideration.

5. MOTION FROM COUNCILLOR MICHAEL SITU (Seconded by Councillor Patrick Diamond)

Robin Hood Tax

1. Council assembly notes the suffering forced upon local residents as a result of the Tory Liberal Democrat government's austerity programme which is unfairly targeting Southwark and its residents.
2. Council assembly believes that the levy of a financial transaction tax (FTT) on the speculative activities of banks, hedge funds and other financial institutions would help to alleviate some of this pressure and ensure the financial sector pays its fair share and helps to clear up the mess it helped create.
3. Council assembly therefore calls upon government to enact the FTT and use the revenues from this measure to reverse ongoing shrinkage in central grants to our council.

Note: If the motion is agreed, any proposals will be submitted to the cabinet for consideration.

6. MOTION FROM COUNCILLOR CATHERINE BOWMAN (Seconded by Councillor Graham Neale)

Northern Line Extension

Council assembly:

1. Notes Transport for London's (TfL's) plans to extend the Northern Line to Nine Elms and Battersea, and the consultation on the plans that closed on 18 June.
2. Notes with particular concern the plans for a temporary shaft to be constructed on Harmsworth Street and a permanent shaft in Kennington Park, both of which would have a considerable impact on the lives of Southwark residents.
3. Urges TfL to pursue the 'gallery tunnels' option for ground treatment work as an alternative to the Harmsworth Street temporary shaft, thereby minimising the disruption to local people.
4. Regrets TfL's decision to place the permanent shaft in Kennington Park on the site of the much-loved beekeeper's lodge, and urges TfL to ensure that the relocation plan provides a suitable environment for the bee population and meets the requirements of Bee Urban and concerned local residents.
5. Calls on cabinet to work with colleagues at Lambeth Council, the GLA and TfL to obtain the best deal for Southwark residents affected by the plans.

Note: If the motion is agreed, any proposals will be submitted to the cabinet for consideration.

7. MOTION FROM COUNCILLOR ADELE MORRIS (Seconded by Councillor David Noakes)

On The Side Of Disabled Residents

Council:

1. Notes that currently the process for installing a resident's disabled bay requires a report to come to community council.
2. Further notes that changes to community councils mean they now meet less frequently and no longer have monthly planning meetings.
3. Recognises that this can mean long periods with no meetings to receive reports on residents' disabled bays, particularly between June and October, which can lead to unacceptably long delays in bays being granted.
4. Requests that constitutional steering panel explores alternative arrangements so that disabled residents are not faced with a wait of up to 6 months for a bay to be installed because there are no community council meetings.

Note: If the motion is agreed, any proposals will be submitted to the constitutional steering panel for consideration.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Member Motions	Constitutional Team 160 Tooley Street London SE1 2QH	Andrew Weir 020 7525 7222

AUDIT TRAIL

Lead Officer	Alexa Coates, Principal Constitutional Officer
Report Author	Lesley John, Constitutional Officer
Version	Final
Dated	25 June 2013

Item No. 6.1	Classification: Open	Date: 10 July 2013	Meeting Name: Council Assembly
Report title:		Report back on motions referred to cabinet from council assembly	
Ward(s) or groups affected:		All	
From:		Cabinet	

MOTION FROM MEMBERS IN ACCORDANCE WITH COUNCIL ASSEMBLY PROCEDURE RULE 2.10 (6) – GENUINELY AFFORDABLE COUNCIL HOUSING FOR SOUTHWARK COUNCIL

Cabinet on 19 March 2013 considered the following motion referred from council assembly on 23 January 2013 which had been moved by Councillor Rebecca Lury and seconded by Councillor Darren Merrill.

1. That council assembly welcomes the fact that the current Labour administration is:
 - Investing £326 million to ensure every council home in Southwark is warm, dry and safe by 2016
 - Building 1000 new council homes in Southwark over the next eight years - more than have been built in all of London in the last 10 years
 - Engaging in a borough-wide consultation into the proposals put forward by Southwark’s groundbreaking independent housing commission which explored future housing options for strategy over the next 30 years
 - And rejecting the government’s definition of affordable housing as up to 80% market rents, by ensuring rents on phase 1 of the Heygate were lowered from 65% to 50% market rents to reflect the wishes of local residents.

2. That council assembly regrets the complete failure of the previous administration when it came to housing, including:
 - No new council homes approved between 2002-2010
 - An unworkable and unfunded decent homes programme which was millions of pounds over budget and left many Southwark residents without decent homes.
 - 7,800 fewer council homes in Southwark by the end of their time in office.

3. That council assembly believes the Tory Liberal Democrat government's housing policy is not geared towards providing more affordable and social housing and opposes:
 - The housing benefit cap
 - "Affordable rent" of up to 80% of market rent
 - The ending of secure tenancies
 - The slashing of the social housing budget by £3.9 billion
 - The Growth and Infrastructure Bill which allows developers to deliver 0% affordable housing on new developments
 - Right to buy discounts of up to £75,000.
4. That council assembly notes that Simon Hughes MP and the Liberal Democrats have supported all of these measures.
5. That council assembly notes that sites for the first phase of the council's 1000 new homes have already been identified throughout the borough and calls on cabinet to draw up plans for consultation on the next phase of new council homes.

We agreed this motion.

MOTION FROM MEMBERS IN ACCORDANCE WITH COUNCIL ASSEMBLY PROCEDURE RULE 2.10 (6) – MAJOR WORKS AND HOUSING REPAIRS

Cabinet on 19 March 2013 considered the following motion referred from council assembly on 23 January 2013 which had been moved by Councillor Anood Al-Samerai, seconded by Councillor Catherine Bowman and subsequently amended.

1. That council assembly regrets the incident at Draper House and notes that the council is doing everything in its power to ensure people feel safe in their homes. It notes that:
 - An investigation was immediately begun into the cause of the incident and that the council has agreed to fully adopt any recommendations to ensure residents' safety
 - Properties where similar work was carried out are undergoing inspection by the council's compliance team to ensure work has been done properly and to the required safety standards
 - The council has also alerted the health and safety executive as safety is its top priority.
2. That council assembly notes that at Four Squares the project has been completely turned round. The uncertainty for residents caused by the previous Liberal Democrat administration's failed housing investment programme and failure to complete security works has now been replaced with certainty as the works start driving forward the £26 million investment on the estate. The cabinet member for housing and council officers have met regularly with residents

throughout the process and the first of the packaged works is now being delivered on time, despite some unforeseen structural issues.

3. That council assembly welcomes the steps taken by the current administration to improve major works project management and performance it inherited from the Liberal Democrats, including:
 - Labour's £326 million warm dry safe programme which is realistic, fully-costed and sets out a clear timetable so residents know exactly when their works will take place
 - A substantial programme of fire risk assessment works, refurbishment of hostels and a programme of improvement to tenants and residents association halls - with 2013/14 individual heating programme brought forward into 2012/13, meaning inefficient boilers are being replaced with more efficient models helping to deliver savings for resident and tackle fuel poverty
 - The restructure and the setting up of project management teams to give improved focus to project management on site and a more open and transparent culture where problems can be quickly identified and resources committed accordingly
 - A comprehensive resident consultation process "Putting Residents First" which ensures the council is clear with residents from the outset about what we are delivering and how they can be involved.
4. That council assembly notes the good progress has been made in improving the repairs service but acknowledges that the service started from a low base thanks to the arrangements put in place by the previous Liberal Democrat administration. It notes that contracts have been terminated with Just Housing, Morrison and the council is a few months away from bringing the call centre in-house. It notes that overall contract management is improving. There is a greater focus on completing repairs quickly and to a high standard leading to reduced costs and a reduction in duplication. Repairs completed right first time is improving as is satisfaction with the repairs service. Complaint escalations are at an all time low as are the number of overdue orders.
5. That council assembly notes that the telephone answering performance at the customer services centre (CSC) for repairs was poor in the last quarter of 2012. This is because the repairs contractor for the south of the borough changed which caused some disruption and resulted in an increase in demand for the telephone service that lasted longer than we predicted. It notes that the council provided further resources and call waiting times have reduced considerably in the first two weeks of 2013. It notes that a customer access strategy has been developed to improve the quality of customer services, ease of accessibility and reduce costs and that the new My Southwark, customer service point opened at The Blue in Bermondsey in mid December and represents the prototype for the future of face to face customer services in Southwark.
6. That council assembly believes an immediate review of major works will be to the detriment of tenants with regards to their works and upgrades being completed on time and would result in severe costs to leaseholders.
7. That council assembly therefore resolves on cabinet to:

- Continue to deliver its £326 million housing investment programme which will make every council home in Southwark warm, dry and safe by 2016
8. Continue to improve management of major works contracts and to develop its customer access strategy which will help to improve the quality of the council's customer services.

We agreed this motion and noted the comments of the strategic director of housing and community services.

MOTION FROM MEMBERS IN ACCORDANCE WITH COUNCIL ASSEMBLY PROCEDURE RULE 2.10 (6) – SAVE SOUTHWARK EMERGENCY SERVICES

Cabinet on 19 March 2013 considered the following motion referred from council assembly on 23 January 2013 which had been moved by Councillor Peter John, seconded by Councillor Richard Livingstone and subsequently amended.

1. That council assembly believes that the safety and security of Londoners and the residents of our borough is being put at risk as a result of cuts to emergency services being pushed through by the Mayor of London and the Tory Liberal Democrat government to our key emergency services – the Metropolitan Police Service, the London Fire Brigade alongside the London Ambulance Service and the city's accident and emergency departments.
2. That council assembly believes that the cuts are going too far and too fast and that the many millions of pounds being cut from the budgets of the NHS, the Metropolitan Police Service and the London Fire Brigade will inevitably endanger families and communities across the capital.
3. That council assembly believes that the cuts are being carried out without consideration of the impact on Londoners' safety. The mooted closures of police front desks in Rotherhithe and East Dulwich, fire stations in Borough and Peckham and Lewisham A & E department will mean various pockets of London could see the safety of residents threatened by longer response times.
4. That council assembly rejects the position of the Mayor of London and of Simon Hughes MP that the scale of the cuts are necessary and acceptable and calls on both to stand up for Southwark residents against the cuts being imposed by the Tory Liberal Democrat government to the emergency services on which we rely to keep Londoners safe.
5. That council assembly notes that since the substantive motion was drafted the Mayor has published his draft police and crime strategy for London, and that this document makes a number of recommendations which will have serious consequences for Southwark if they are implemented:
 - (a) The proposed closure of East Dulwich, Gipsy Hill and Sydenham police stations, which will leave a 'black hole' in counter service provision for the residents of College, Village and East Dulwich wards.
 - (b) The proposed closure of Rotherhithe police station, which will leave an isolated peninsula community without adequate access to dedicated police resources.
 - (c) The proposed dismantling of the neighbourhood policing model such that the current dedicated ward based teams of six staff members (one

sergeant, three police constables and two police community support officers) will be reduced to one dedicated police constable plus a 'named sergeant'.

6. That council assembly notes the Mayor's election manifesto commitment not to close any police station facility without opening an 'equivalent or better' facility in the same area, and notes that the draft police and crime strategy breaks this pledge.
7. That council assembly deplores the lack of cross-borough co-ordination in planning police station closures which has resulted in the 'black hole' in counter service provision in the Dulwich and Crystal Palace areas, which are close to the boundary with four other London boroughs.
8. That council assembly further deplores the dismantling of the neighbourhood policing model which will see the majority of officers deployed to high crime areas, to the detriment of the very important and successful community liaison and crime prevention roles which have helped to keep crime low.
9. That council assembly records its grave concern at the impact of both police station closures and the dismantling of the neighbourhood policing model on vulnerable residents, victims of domestic violence and others for whom the local police station is a place of safety; and on the ability of the police to record crime statistics accurately. Further, council assembly is concerned at the impact of police station closures on the management of local police teams and the potential for valuable police time to be lost to wards in the south of the borough due to officer travel time from operational bases in the north of the borough.
10. That whilst council assembly acknowledges the need to make budget savings, it believes the 20% cut imposed by the Tory Liberal Democrat government goes too far and too fast. In addition whilst council assembly recognises the inappropriateness of some current police station buildings for on-going use, for example the current East Dulwich police station building, it is extremely concerning that the draft police and crime plan contains no proposals for alternative provision, no definition of 'equal or better' against which future performance can be measured, and no creative thinking. Council assembly requests that the cabinet calls upon the Mayor to honour his manifesto commitment concerning police counter facilities, and to rethink the proposals for the south of the borough and for Rotherhithe, working creatively with the council and local communities, to ensure that the dangerous 'black hole' scenario is averted.
11. That council assembly recognises the council's commitment to working creatively with the Metropolitan Police in identifying alternative premises which have the potential to meet police security criteria in the south of the borough and in Rotherhithe.

We agreed the motion and noted that a full response had been submitted to the Metropolitan Police and MOPAC on the 28 February 2013 concerning their recent consultation on policing in London. We also noted the Council's offer to invest up to £750,000 of capital in improving council facilities in order that the Police may continue to operate front office counters across the borough.

MOTION FROM MEMBERS IN ACCORDANCE WITH COUNCIL ASSEMBLY PROCEDURE RULE 2.10 (6) – DNA DATABASE

Cabinet on 19 March 2013 considered the following motion referred from council assembly on 23 January 2013 which had been moved by Councillor Graham Neale, seconded by Councillor Rosie Shimell and subsequently amended.

1. That council notes that in a fair society it is simply not right that innocent people can have their DNA stored by the state.
2. That council also notes with concern that since 2004 the UK's national DNA database (NDNAD) has been permitted to hold DNA samples of any individual arrested of an offence, regardless of whether that individual was actually charged or convicted.
3. That council notes that over million people, who have never been given a conviction, caution or formal warning are estimated to be on the national DNA database and acknowledges that the European Court of Human Rights found indefinite DNA retention to be in violation of Article 8.
4. That while council recognises that DNA evidence can be an important tool in criminal investigations, council believes that the indefinite retention of the DNA of innocent people constitutes a disproportionate intrusion by the state.
5. That council assembly notes the announcement that DNA samples held for innocent people will be destroyed in four months time in May 2013 and supports the Metropolitan Police Service's early deletion request scheme.
6. That in particular, council urges council officers to provide a link to the early deletion request scheme on Southwark Council's website and highlight the scheme in the next edition of Southwark Life.

We agreed this motion and noted that an article had been placed in Southwark Life highlighting the 'early deletion scheme'.

MOTION FROM MEMBERS IN ACCORDANCE WITH COUNCIL ASSEMBLY PROCEDURE RULE 2.10 (6) – BASIC SAFETY AND SECURITY FOR RESIDENTS

Cabinet on 14 May 2013 considered the following motion referred from council assembly on 27 March 2013 which had been moved by Councillor Michael Bukola, seconded by Councillor Adele Morris and subsequently amended.

1. That council assembly believes that crime and the fear of crime are among our residents' main concerns and notes the council's fairer future promise to crack down on anti-social behaviour and implement a violent crime strategy.
2. That council assembly notes the progress being made against the 5 priorities in the violent crime strategy including:
 - 9% reduction in violence with injury
 - 4% reduction in most serious violence
 - 22% reduction in knives used to injure
 - 19% reduction in youth violence

- 10% reduction in domestic abuse.
3. That council assembly notes that despite savings to Southwark's anti-social behaviour unit, the number of anti-social behaviour cases that have been managed by Southwark antisocial behaviour unit (SASBU and housing officers over the last three years has actually increased by 40%; the number of acceptable behaviour contracts issued increased by 19% on last year.
 4. That council assembly welcomes the establishment of the Southwark anti-violence unit (SAVU), a multiagency team working together to support individuals and families affected by gang and serious youth violence. It welcomes the fact that, the first 10 months evaluation highlights that following engagement with SAVU, 45% of SAVU clients have not come to police notice, compared with the 12 months prior to their involvement in the scheme when 100% had come to notice. Council assembly further notes the favourable review of this work by the Home Office in October 2012, in which the council was praised by the review team for its 'political leaders recognising and prioritising ending gang and youth violence work and sending out a very strong signal that this is a priority for the borough and will be resourced and supported'.
 5. That council assembly also welcomes the announcement in last month's budget of £1.4m to upgrade outdated camera systems on Southwark's housing estates as well as 30 new redeployable cameras and an upgraded control room. It notes that CCTV has supported the police in making around 900 arrests between April and March of 2012/13.
 6. That council assembly regrets the government's decision to cut the Met's budget by 20% and the impact this has had on police officer numbers in the borough and on closures to police stations in Rotherhithe and East Dulwich. It welcomes the council's decision to identify £750,000 for community safety initiatives including alternative police front counters.
 7. That council assembly asks the cabinet to develop plans to:
 - Work collaboratively with customs and excise, police and neighbouring boroughs to tackle the drugs trade
 - Work with communities and registered social landlords to develop new approaches to resolve conflicts within communities
 - Help communities gain confidence to tackle anti-social behaviour in their midst
 - Continue the excellent work of SAVU despite government cuts
 - Develop further the work with our partners to reduce re-offending
 - Work with Solace, the voluntary sector and local hospitals to develop innovative approaches to tackling violence against women and girls.

We agreed this motion.

MOTION FROM MEMBERS IN ACCORDANCE WITH COUNCIL ASSEMBLY PROCEDURE RULE 2.10 (6) – LOCALISING PLANNING DECISIONS

Cabinet on 14 May 2013 considered the following motion referred from council assembly on 27 March 2013 which had been moved by Councillor Toby Eckersley and seconded by Councillor Lewis Robinson and subsequently amended.

1. That council assembly notes the concerns which residents and members from all parties have raised about travel times to Tooley Street from the south of the borough.
2. That council assembly recognises the need to make planning decision-making as accessible to all residents as possible.
3. That council assembly further recognises the need for financial efficiency across all departments in this time of austerity, and the additional unsustainable costs which would be incurred by holding planning committee meetings in a range of different venues across the borough.
4. That council assembly therefore proposes that some planning sub-committee meetings should be held at the council offices at Queen's Road Peckham as soon as it is practical.
5. That council assembly requests the director of planning to report back on the impact of this change of venue in terms of the attendance of members of the public at planning sub-committee meetings in one year's time.

We agreed this motion.

MOTION FROM MEMBERS IN ACCORDANCE WITH COUNCIL ASSEMBLY PROCEDURE RULE 2.10 (6) – FIRE AT WALWORTH TOWN HALL / CUMING MUSEUM

Cabinet on 14 May 2013 considered the following motion referred from council assembly on 27 March 2013 which had been moved by Councillor Peter John and seconded by Councillor Anood Al-Samerai.

That council assembly:

- Expresses great sadness at the devastating fire this week at Walworth Town Hall and the damage it has caused to the Cuming museum and adjoining buildings
- Thanks the emergency services, council staff and local residents and businesses for their dedicated efforts to protect lives and heritage.
- Supports the work of officers in finding alternative temporary premises for the One Stop Shop and library study space.
- Recognises the need for community conversations to now take place to allow residents to share their thoughts about the buildings and the future, including preserving the external facade in any rebuilding work.

- Notes that the first fire engine on the scene came from Southwark Fire Station, which is currently on the Mayor of London's list for closure, and that other fire engines assisting were from stations also under threat of closure.
- Calls on the Mayor of London to have regard to this event before finalising the planned fire station closures in light of the events of this week, given how much worse the situation could have been without the quick response from our local fire stations.

We agreed this motion and noted the comments of the chief executive.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Cabinet agenda and minutes – 19 March 2013. The document is available on this web page (item 16) http://moderngov.southwark.gov.uk/ieList/Documents.aspx?CId=302&MId=4252&Ver=4	Constitutional Team, 160 Tooley Street, London SE1 2QH	Everton Roberts 020 7525 7221
Cabinet agenda and minutes – 14 May 2013. The document is available on this web page (item 15) http://moderngov.southwark.gov.uk/ieList/Documents.aspx?CId=302&MId=4254&Ver=4		

AUDIT TRAIL

Lead Officer	Alexa Coates, Principal Constitutional Officer	
Report Author	Everton Roberts, Constitutional Officer	
Version	Final	
Dated	27 June 2013	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Legal Services	No	No
Strategic Director of Finance and Corporate Services	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team	27 June 2013	

Item No. 7.1	Classification: Open	Date: 10 July 2013	Meeting Name: Council Assembly
Report title:		Fairer Future Annual Performance Report 2012/13	
Ward(s) or groups affected:		All	
From:		Cabinet	

RECOMMENDATIONS

1. That the council assembly agrees the Council Plan's cabinet member portfolio objectives and targets for 2013/14 (see Appendix 1 of the report).

BACKGROUND INFORMATION

2. On 6 July 2011 council assembly approved a new Council Plan. This set out how the council would seek to achieve its Fairer Future for All vision, in an environment of significantly reduced funding specifically to the council and to the wider public sector. Ten fairer future promises were agreed with a further set of objectives outlined in performance schedules for each cabinet member portfolio area.
3. Following engagement with local people through the council's budget process, the council plan identified a number of principles that now underpin our 'fairer future for all' vision and guide the promises and objectives that we agreed through the Council Plan. The Fairer Future principles were updated to the following:
 - Treating residents as we would wish members of our own families to be treated.
 - Being open, honest and accountable.
 - Spending money as if it were coming from our own pocket.
 - Working for everyone to realise their potential.
 - Making Southwark a place to be proud of.
4. The Council Plan placed local needs and accountability as the drivers of the council's performance improvement. Over 2010/11 a number of changes were made to the performance monitoring and reporting requirements of the council by central government. These included abolition of the national indicator set and the end of the requirement for local area agreements. The council therefore had greater flexibility in developing a plan that addressed local priorities.
5. At the heart of the Council Plan are the council's ten Fairer Future promises. The focus on ten key promises is recognition that in times of reduced funding, we need to priorities our resources on areas where we can meet our vision, and achieve the maximum benefit. The present ten Fairer Future promises are:

Promise 1 – "Provide improved value for money and keep council tax increases below inflation"

Promise 2 – “Work with residents and the police to make the borough safer for all by cracking down on antisocial behaviour and implementing our new violent crime strategy”

Promise 3 – “Deliver the first three years of our five year plan to make every council home warm, dry and safe”

Promise 4 – “Improve our customer service with more online services, including delivery of a better housing repairs service, independently verified by tenants”

Promise 5 – “Introduce free healthy school meals for all primary school pupils, and champion improved educational attainment for our borough's children”

Promise 6 – “Support vulnerable people to live independent, safe and healthy lives by giving them more choice and control over their care”

Promise 7 – “Encourage healthy lifestyles by transforming Burgess Park, opening a new swimming pool at Elephant and Castle and awarding £2m to local sports projects to leave a lasting Olympic legacy”

Promise 8 – “Open Canada Water library in autumn 2011, open a library in Camberwell and conduct a thorough review of the library service”

Promise 9 – “Bring the full benefits and opportunities of regeneration to all Southwark's residents and build new family homes on the Aylesbury Estate and at Elephant and Castle”

Promise 10 – “Double recycling rates from 20 per cent to 40 per cent by 2014 and keep our streets clean”

6. During the year the council has monitored performance against the ten promises and objectives in the council plan, with performance data reviewed on a quarterly basis. A Fairer Future Interim Performance report was presented to cabinet on 29 January 2013 to note progress made over the first six months of 2012/13, the second year of the Council Plan.
7. This annual performance report provides a year end summary of progress over the twelve months of 2012/13 against the ten promises and cabinet member performance objectives. In line with our fairer future principle of being open, honest and accountable, it will be available on the council's website.

KEY ISSUES FOR CONSIDERATION

8. The Fairer Future Annual Performance Report in Appendix 1 outlines what we have delivered in 2012/13, in line with our Fairer Future principles, and against the promises and objectives we have set out.
9. Strong progress has been made across the fairer future promises over 2012/13. This includes protecting households by freezing council tax, putting in place measures that have helped reduce violent crime related offences, rolling out our free healthy school meals programme to years 2 to 4, delivering personal budgets to 90% of eligible users and completing our revitalisation of Burgess Park. A full update on progress against the Fairer Future promises is outlined in full in Appendix 1.

10. The Fairer Future Annual Performance Report 2012/13 also confirms our objectives and targets for 2013/14. In line with our Approach to Equality and public sector equality duties the report also outlines our commitment to equality through the confirmation of our equality objectives.

Community impact statement

11. The purpose of this report is for council assembly to note progress in 2012/13 against the promises and objectives agreed in the Council Plan and the 2011/12 Council Plan Annual Performance Report, and to agree the updated cabinet member portfolio objectives and targets for 2013/14.
12. No specific equality analysis has been undertaken on this report on performance as there are no impacts arising from the report itself. Future decisions made on the basis of the performance highlighted by this report may require equality analysis to be undertaken and more detailed consideration of the impact on local people and communities as appropriate. The Forum for Equalities and Human Rights in Southwark's Equality and Human Rights Panel has been engaged on the council's equality objectives and its feedback has been taken into consideration in proposing the equality objectives for 2013/14.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

13. It was previously a requirement for local authorities to publish a best value performance plan. The Local Government and Public Involvement in Health Act 2007 removed the powers of the Secretary of State to specify performance indicators and standards for local authorities, the duty on authorities to meet such standards and to publish best value performance plans. However, a local authority is still under a general duty of best value to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". The Council Plan is one of the ways the council can demonstrate that it is achieving this requirement.
14. The proposed changes in Council Plan have been considered by cabinet, who recommend that council assembly agrees the Council Plan's cabinet member portfolio objectives and targets for 2013/14.
15. No specific equality analysis has been undertaken for this report as there are no impacts on the community arising from the report itself, but council assembly is reminded of the requirement to have due regard to the public sector equality duty set out in s.149 Equality Act 2010 in its future deliberations and conclusions.

Strategic Director for Finance and Corporate Services

16. This report notes progress in 2012/13 against the ten fairer future promises and portfolio performance objectives in the Council Plan. It outlines portfolio objectives for 2013/14.
17. The strategic director of finance and corporate services notes that there are no new financial implications as a result of accepting the recommendations of this

report. The costs of the objectives have been assumed in the council's 2013/14 budget and progress will be periodically reported to cabinet throughout the financial year.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Response to the Equality and Human Rights Panel on the council's equality objectives	http://www.southwark.gov.uk/downloads/200041/equality_and_diversity	Chima Amiaka – chima.amiakasouthwark.gov.uk
Fairer Future Interim performance Report 2012/13	http://moderngov.southwark.gov.uk/documents/s34816/Report%20Fairer%20Future%20Interim%20Performance%20Report.pdf	Alex Irvine – alex.irvinesouthwark.gov.uk
Council Plan Annual Performance Report 2011/12	http://www.southwark.gov.uk/info/200342/council_plan	Alex Irvine – alex.irvinesouthwark.gov.uk
Council Plan 2011-14	http://www.southwark.gov.uk/info/200342/council_plan	Alex Irvine – alex.irvinesouthwark.gov.uk

APPENDIX

No.	Title
Appendix 1	Fairer Future Annual Performance Report 2012/13 (circulated separately and available to view on the council's website)

AUDIT TRAIL

Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	Chima Amiaka, Senior Strategy Officer	
Version	Final	
Dated	27 June 2013	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer title	Comments sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director for Finance and Corporate Services	Yes	Yes
Leader of the Council	Yes	Yes
Date final report sent to Constitutional Team		27 June 2013

Item No. 8.1.	Classification: Open	Date: 10 July 2013	Meeting Name: Council Assembly
Report title:		Gambling Act 2005 – Southwark Statement of Gambling Licensing Policy 2013-2016	
Ward(s) or groups affected:		All wards	
From:		Strategic Director of Environment & Leisure	

RECOMMENDATION

1. That the assembly approves the Southwark Statement of Gambling Licensing Policy for 2013-2016, attached at Appendix A, with effect as of 1 September 2013.

BACKGROUND INFORMATION

2. The Gambling Act 2005 introduced a new licensing regime for gaming and betting administered through a combination of the Gambling Commission and local licensing authorities.
3. The Act regulates the following sectors:
 - Arcades
 - Betting
 - Bingo
 - Casinos
 - Gambling software
 - Gaming machines
 - Lotteries
 - Remote (online) gaming.
4. The Gambling Commission is responsible for licensing operators and individuals involved in providing the above activities.
5. Licensing authorities are responsible for:
 - Issuing gambling operators with premises licences
 - Issuing gambling operators with permits (which allow low stakes gambling in venues which are primarily not for gambling)
 - Registering societies – allowing them to hold small lotteries
 - Compliance and enforcement of the Act locally.
6. Licensing authorities are required to prepare and publish, every three years, a statement of the principles (the Southwark statement of gambling licensing policy) which they propose to apply when exercising their licensing functions. The Act requires that before the licensing authority publishes its statement of licensing principles it must carry out a public consultation exercise.

7. Section 153 of the Act provides that licensing authorities shall aim to permit the use of premises for gambling in so far as they think it:
 - In accordance with relevant codes of practice
 - In accordance with the guidance for licensing authorities issued by the Gambling Commission
 - Reasonably consistent with the licensing objectives
 - In accordance with the authority's statement of licensing policy.
8. This authority's statement of principles was first published in January 2007. It was compiled having regard to a broad range of contributions from responsible authorities; representatives of the industry; and of the community. It has been subject of several reviews and amendments as policy and guidance has changed over the years. The current version was approved by council assembly in October 2010 and is now overdue for renewal.
9. In October 2012, the Gambling Commission published the fourth edition and most recent version of its guidance to local licensing authorities.
10. Following publication of the revised guidance, the Southwark statement of licensing policy has been compared with the guidance for consistency and revised where the guidance has been developed.
11. The revised statement of policy went out for public consultation through December 2012 and January 2013. No other policy changes were incorporated beyond the revisions made to maintain consistency with the commission guidance.
12. Following the consultation exercise, the few responses received have been considered and some additions incorporated. A final version of the revised policy was put to the council's licensing committee for consideration on 12 June 2013.
13. The committee decided to recommend the revised policy to council assembly for approval. If the assembly approves the document it must be published and made available on the council's website and at its offices for at least four weeks before it may have effect. It is proposed, therefore, that the effective date of the revised policy should be 2 September 2013.

KEY ISSUES FOR CONSIDERATION

Main changes to the statement of policy

14. Detailed below are the main changes made to the statement of policy in order to ensure consistency with the commission's guidance:
 - **Interested parties** (pages 15 and 16, Appendix A) – Further qualification is now provided as to the circumstances under which the authority may determine either that a 'person lives sufficiently close to a premises so as to be affected by the authorised activities' and 'the nature and scope of business interests that could be affected'
 - **Primary gambling activity** (page 22, Appendix A) – Clarification is now incorporated in the policy that the primary activity of the premises should be

that for which it is authorised, for instance in a licensed bingo hall the primary activity should be bingo. This clarification is important in terms of establishing that gaming machines provided at premises should be 'ancillary offers'

- **Relationship between planning permission, building regulations and granting of a premises licence / provisional statements** (page 23 to 25) – The policy now quotes extensively from the latest commission guidance, on how the authority must approach applications for licences made in respect of premises that are intended for future use
- **Premises licence conditions** (pages 34 to 37) – For purposes of completion, the policy now incorporates mandatory licence conditions required in respect of each category of premises licence in full.

15. Following consultation 3 additional new references have been added:

- **The Southwark SPA card** (page 29) – At the request of the council's trading standards service reference to the Southwark proof of age (SPA) card has been incorporated into the policy document. The SPA card is available to 16-25 year olds by direct application or may be issued via their school or other educational establishment
- **Conflict resolution training** (page 30) – At the request of the council's occupational health and safety team, reference is now made to the availability of business support in dealing with workplace violence and aggression
- **London Safeguarding Children Board (LCSB) policy for licensed premises** (page 39) – Reference is now included within the policy to this document. Operators of gambling premises lawfully permitted to allow children and young persons upon their property (i.e. unlicensed family entertainment centres and alcohol licensed premises with gaming machine permits) are asked to display an adapted version of the LCSB policy for staff information.

Proliferation of betting shops

16. Though not reflected within the consultation response, this authority is acutely aware of increasing local community concerns over the perceived clustering or over-proliferation of betting shops, particularly within more deprived areas. This authority is itself concerned with the restrictive framework for considering licence applications provided under current statute (as set out in Appendix C).
17. However, this authority's position may be strengthened by the inclusion within the policy revision of the commission's advice on primary activity (section 14 above). With specific regard to this, this authority is monitoring the situation in the matter of the application by Power Leisure Ltd (t/a Paddy Power) under s153 of the 2005 Act for a new betting premises licence in Green Street, Upton Park, Newham. In February 2013, Newham Council became the first council in the country to use the 'primary activity' of a betting shop in their decision to reject this application. The council contended that the premises would add to the 'cluster' of betting shops that already operate in the area and decided the application did not meet the criteria for a betting shop licence, as the premises would not be

primarily used for betting. It was considered that the purpose of the application was to increase the number of fixed odds betting terminals (FOBTs) in the street rather than enable traditional betting.

18. On 17 June 2013, Thames Magistrates Court considered this matter upon appeal and overturned the decision by Newham Council. Newham Council is currently considering its position and the courses of action that are available to it. Whilst the judgement does not materially affect our policy any significant changes will be brought back to the licensing committee.
19. In the meantime, it is this authority's intention to work to develop relevant aspects of this policy in the light of any changes that may arise to the current legal position.

Consultation

20. Under the Act, when compiling its licensing policy, each licensing authority is required to consult with:
 - The chief officer of police
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.
21. The consultation exercise in respect of this policy ran through December 2012 and January 2013. It comprised:
 - Information and a questionnaire made available on the licensing web site;
 - A public notice placed in the Southwark News
 - A public notice exhibited at the council's main office
 - Direct letter drops to all responsible authorities (including the chief officer of the police); Southwark licence holders; ward councillors; and bodies and individuals who have subscribed to the licensing service's licensing email alert scheme.
22. Very few responses were received to the consultation. This may be explained by the frequency of review of the policy and absence of new policy development.
23. Responses received to the consultation are set out in full in Appendix B.

Policy implications

24. The policy has four main objectives. These are:
 - To reinforce to elected members on the licensing committee, the boundaries and power of the local authority as licensing authority and provide the parameters under which these licence decisions are made
 - To inform licence applicants of the parameters under which this authority will make licence decisions and how a licensed premises is likely to be able to operate within an area

- To inform residents and businesses of the parameters under which licence decisions will be made and how their needs will be addressed
- To support licensing decisions that may be challenged in a court of law.

25. The Southwark Statement of Gambling Licensing Policy 2013-2016 supports general policy objectives:

- Creating a fairer borough by ensuring the licensing process provides for the fair and equal consideration of each licence application and allowing every person to have the opportunity to be heard in the process
- Making Southwark a place to be proud of by helping business work together with local community to provide leisure opportunities that contribute to local quality of life
- Realising potential by providing a level playing field for traders
- Spending money as we would our own by ensuring an efficient and effective licensing process and service and by targeting resources to where they are needed most
- Transforming public services by setting out to provide a modern, accessible service.

Community impact statement

26. The Gambling Act 2005 establishes the following licensing objectives:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and vulnerable people from being harmed or exploited by gambling.

27. The licensing processes applied by this authority are consistent with those established by statute by way of the Act and related regulations and the further guidance and direction given by the Gambling Commission.

28. The council has a duty to consider every application for relevant licences and consents made to it. Each application is considered upon its own merits with all relevant matters taken into account. There are no artificial barriers provided by this policy or by any council process or practice, to any person wishing to make a licence application. Nor are there any artificial barriers applied to any person who qualifies as an 'interested party' under the Act from having their views on an application taken into account.

29. This policy revision forms a technical update to the original policy published in 2007.

30. The revision maintains local policy concerning the location of gambling premises in areas where there may be particular issues relating to children and vulnerable people. Furthermore, the policy provides commitment to supporting the commission as and 'eyes and ears' enforcement agency within the Southwark

area.

31. The initial statement of policy was subject of an equalities impact assessment. The assessment has been revisited in the light of the revisions. No new issues have been raised by the revisions.

Resource implications

32. There are no new resource implications introduced by this report. Any costs of implementing the proposed policy will be contained within existing revenue budgets.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

33. The Gambling Act 2005 (“the 2003 Act”) requires the council, as the licensing authority, to prepare and publish a statement of its gambling licensing policy every three years.
34. In determining its policy, the council is exercising a licensing function and as such must have regard to with codes of practice issued under section 24, the guidance issued by the Secretary of State under section 25 of the 2005 Act. It must also give appropriate weight to the views of those persons/bodies listed in the Act which it is required to consult before determining its policy.
35. Although the guidance represents best practice, it is not binding on the council. As long as the guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so. In this event they will need to give full reasons for their decisions, which must be consistent with the objectives of the 2003 Act.
36. The council is required to have regard to the statement of licensing policy and make decisions in accordance with it. Licensing authorities may depart from their policy if the individual circumstances of any case merit such a decision in the interests of promoting the licensing objectives. In this event it is important that full reasons are given for departing from the published statement of licensing policy.
37. Members should note that the 2005 Act imposes a duty on the council, as the licensing authority, to carry out its functions under the Act with a view to promoting the three licensing objectives, namely:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
38. Each of these objectives is of paramount and equal importance. There are no other licensing objectives and therefore the council cannot reject an application for a licence or impose conditions on a licence for any purpose unrelated to the promotion of these objectives.

39. The statement of gambling licensing policy cannot seek to impose blanket conditions. Each application must be considered on its own merits. Conditions can only be imposed on a licence if they are necessary to promote the licensing objectives in relation to the specific premises and are a proportionate response to the specific situation to be addressed. The guidance provides that if the situation the condition is intended to address is already addressed by a provision in the 2005 Act or any other legislation then the condition cannot be said to be 'necessary'.
40. The licensing is about regulating the carrying on of gambling activities within the terms of the 2005 Act. The statement of gambling policy should make it clear that gambling law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business carrying on gambling activities. However, the guidance also states that gambling law is a key aspect of such control and should always be part of a holistic approach to the management of the evening and night-time economy. It is therefore desirable that the statement of licensing policy is in line with the council's wider objectives and consistent with other policies.
41. Members should note that the statement of gambling policy must not be inconsistent with the provisions of the 2005 Act and must not override the rights of any individual as provided for in that Act. Nor must the statement of gambling policy be inconsistent with obligations placed on the council under any other legislation, including human rights legislation. Members should also note that the council has a duty under section 17 of the Crime and Disorder Act 1998, when carrying out its functions as a licensing authority under the 2005 Act, to do all it reasonably can to prevent crime and disorder within the borough.
42. Positive equalities obligations are placed on local authorities, sometimes described as equalities duties, with regard to race, disability and gender. Race equality duties were introduced by the Race Relations Amendment Act 2000 which amended the Race Relations Act 1976. Gender equalities duties were introduced by the Equality Act 2006, which amended the Sex Discrimination Act 1975. Disability equality duties were introduced by the Disability Discrimination Act 2005 which amended the Disability Act 1995.
43. Equality impact assessments are an essential tool to assist councils to comply with our equalities duties and to make decisions fairly and equalities and human rights impact assessments that are carried out should be mindful of the protected characteristics under the Equality Act 2010.
44. Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, decisions relating to licensing matters cannot be the responsibility of an authority's executive. The 2005 Act provides that whilst the majority of the functions of the licensing authority, are to be taken or carried out by its licensing committee, decisions relating to the statement of licensing policy cannot be delegated in such a way. The decision on whether to adopt the statement of licensing policy must therefore be taken by council assembly.

Gambling Act – Cumulative Impact

45. The adoption of a cumulative impact policy to address evidenced undermining of the licensing objectives in any given area would not be wrong in principle, or otherwise unlawful.
46. The statutory provisions for an authority's licensing policy under the section 349 Gambling Act are similar to the provisions in section 5 of the Licensing Act that deals with an authority's statement of licensing policy. Where there are differences, they do not impact on the legality of a cumulative impact policy under the Gambling Act 2005.
47. The Home Office guidance under the 2003 Act places great stress on the need for the adoption of a cumulative impact policy to be evidence-based. The same is required if a cumulative impact policy is to be introduced into Southwark's gambling licensing policy.
48. There is difficulty in demonstrating that problems are attributable to the cumulative impact of a number of betting premises, as opposed to problems being specific to individual premises and therefore capable of being dealt with by review or other targeted enforcement. If consideration is to be given to the introduction of a cumulative impact policy, then independent research to establish whether there is a sufficient evidential basis would need to be undertaken into the observed (rather than speculative) effects of over-licensing have perhaps been published, should be given consideration.

Strategic Director of Finance and Corporate Services (E&L/13/015)

48. The strategic director of finance and corporate services notes the proposal set out in this report and confirms that there are no direct financial implications arising. Officer time to implement this decision can be contained within existing resources.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The London Local Authorities Act 1991	The Licensing Service, 3 rd Floor, Hub 2 160 Tooley Street	Mrs Kirtikula Read 020 7525 5748

APPENDICES

No.	Title
Appendix A	The Southwark statement of gambling licensing policy 2013-2016
Appendix B	Summary of consultation responses
Appendix C	The licensing of betting shops

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Leisure	
Report Author	Richard Parkins, Health Safety Licensing and Environmental Protection Unit Manager	
Version	Final	
Dated	13 June 2013	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Legal Services	Yes	Yes
Finance Director	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	25 June 2013	

APPENDIX A

**THE DRAFT
SOUTHWARK
STATEMENT OF
GAMBLING
LICENSING POLICY
2013 – 2016**



LEGAL BACKGROUND TO THIS DOCUMENT

The Gambling Act 2005 (the Act) received royal assent on 7 April 2005. It repealed the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusement Act 1976 and provided a new regulatory system to govern the provision of all gambling in Great Britain other than the national lottery and spread betting.

The Act introduced a new unified regulator for gambling in Great Britain, the Gambling Commission. The commission replaced the gaming board of Great Britain.

The Act came into effect in 2007. Since 2007 the commission has been responsible for granting operating and personal licences for commercial gambling operators and personnel working in the industry. It also regulates certain lottery managers and promoters.

Licensing authorities have responsibility for licensing gambling premises in their area, as well as undertaking functions in relation to lower stake gaming machines and clubs and miners' welfare institutes.

Licensing authorities are required by the Gambling Act 2005 to consult upon and publish a statement of the principles, which they propose to apply when exercising their functions under the act. This statement must be published at least every three years and be reviewed from "time to time". Any amendments must be subject of further consultation.

Southwark council's original statement of licensing policy was first published on 3 January 2007, following approval by council assembly on 6 December 2006. This second revision of the policy was compiled in 2012. In producing this revision, this authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance to the licensing authorities issued by the Gambling Commission, and any responses from those consulted on the policy statement.

A list of those parties with whom the council consulted directly is attached at appendix A to this document. It should be noted that unsolicited comments were received also.

The consultation followed the Revised Code of Practice (which came into effect in April 2004) and the cabinet office guidance on consultations by the public sector.

The full list of comments made and the consideration by the council of those comments is available by request to

The health safety licensing & environmental protection unit manager
C/O Southwark council
Environmental health and trading standards business unit
PO Box 64529, SE1 5LX
Tel contact – The customer service centre on 020 7525 2000 or
E-mail – licensing@southwark.gov.uk

This policy was approved by the full council assembly on 10 July 2013 (to be confirmed). Hard copies are available from the licensing service. Copies will be placed in the public libraries of the area as well as being available in the town hall.

Should you have any comments as regards this policy statement please send them via e-mail or letter to the address given above.

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SECTION ONE – EXECUTIVE SUMMARY

This policy, alongside our complementary (alcohol, entertainment and late night refreshment) licensing policy recognises the change that is taking place within Southwark and how recent development and regeneration projects are adding to the growing value and importance of our borough. It recognises also the extent of the contribution of the leisure and entertainments industry.

Southwark enjoys a widespread and diverse selection of licensed premises and venues. Some 1,200 premises are currently licensed for either the sale or supply of alcohol; the provision of regulated entertainment; and / or the provision of late night refreshment. These range from off-licences, shops and supermarkets; restaurants, cafes and take-away establishments; to pubs, bars, members clubs, night clubs, theatres, cinemas and indoor sports facilities. There are in excess of 100 additional gaming and betting facilities, comprising of bingo halls, amusement arcades and betting offices. Together they combine to provide a wide-range of leisure and cultural opportunities; support tourism; provide employment; and make a significant economic contribution to the local community.

As long as premises are well run and premises management acknowledges the value of working together with the local community, they can make a significant contribution toward building community cohesion and cultural development.

Of course, negative impacts can also occur if good management practices are not followed. Potential negative impacts may arise in the form of noise, nuisance, disturbance and crime and disorder problems. With gaming and betting establishments there are also risks of individual gambling addiction.

Our policy seeks to provide the necessary balance between responsible business operators contributing toward a thriving business and late night economy whilst ensuring that the quality of life of those who live and work in the Borough is protected and enhanced through the licensing system. We believe these aims are achievable if all parties concerned work together.

The opening sections of this policy help establish how we set out to address our licensing responsibilities under the Act. Section two of our policy provides an introduction to our Borough and our Council, while section three sets out the purpose and scope of the policy. Section four covers our administrative arrangements for determining applications (including consultations), confirming the bodies the authority recognises as competent to advise on issues of child protection and protection of vulnerable adults, and the principles this authority will apply in determining whether someone qualifies as an interested party.

Section five deals with premises licences in some detail and applicants for such licences are urged to read this section, in particular, carefully. It provides advice on 'primary gambling activity'; and 'definition of premises' and helps clarify the position on 'provisional statements'. It goes on to examine issues relevant to the three licensing objectives (with particular consideration given to the third objective of preventing harm to children and vulnerable people) and, importantly, gives advice and information of the expectations of the licensing authority and the other responsible authorities around these objectives. This includes access arrangements; age identification schemes; restrictions on advertising; and social responsibility.

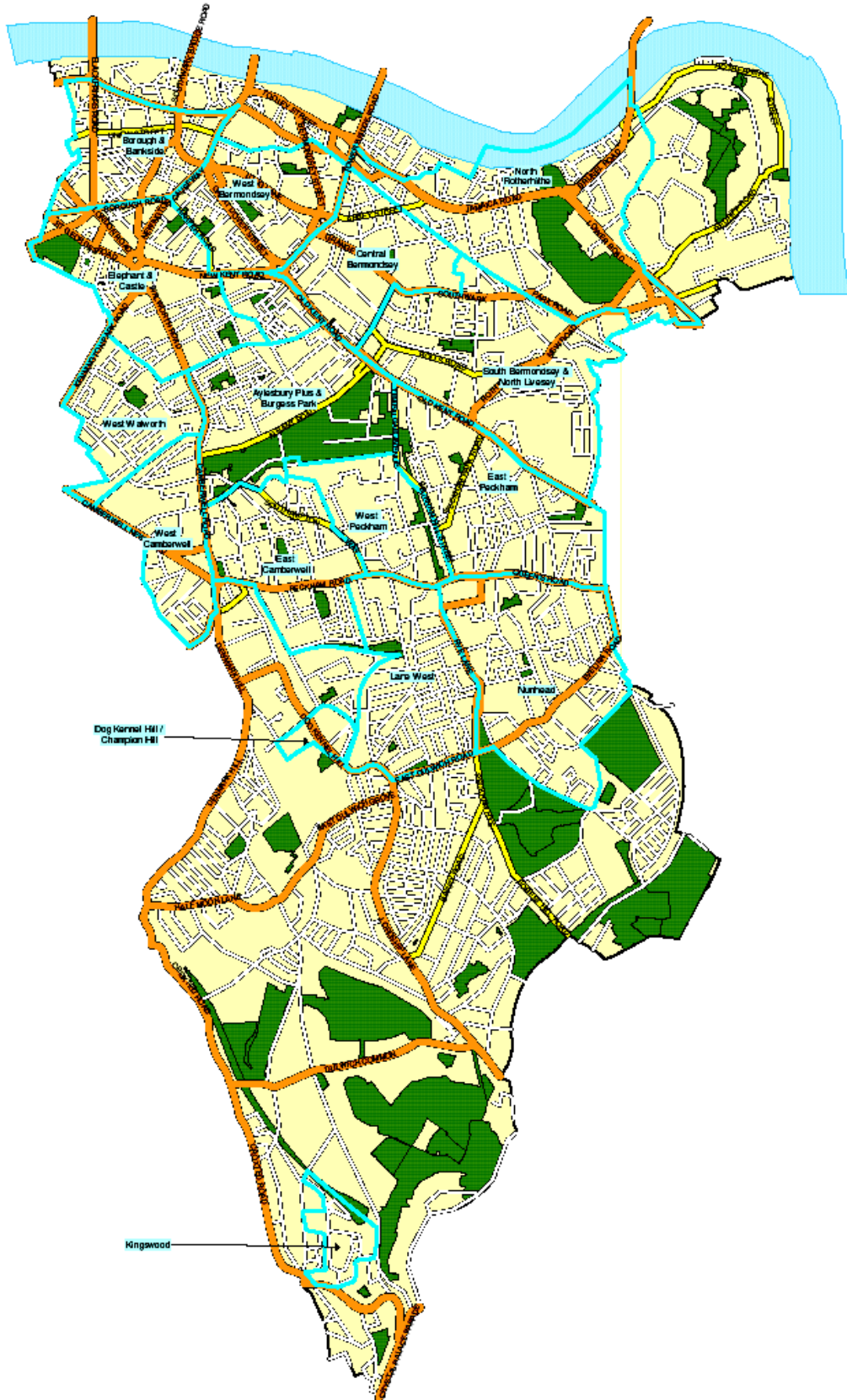
Section five also sets out this authority's policy on location of licensed premises. This section also covers issues around social responsibility and sets out requirements for access arrangements across categories of premises.

Section six of this policy provides a statement of the principles this authority will consider when considering applications for permits, temporary and occasional use notices. Section seven of the document deals with small society lotteries.

Section eight of our policy sets out our approach to regulation, examining how we aim to ensure that our enforcement actions are targeted where they are needed most and co-ordinated together with our partners. It also sets out how we aim to ensure that our enforcement actions are carried out in a fair, consistent and transparent manner.

This policy will be regularly reviewed and will be subject of public consultation at least every three years. We welcome your thoughts on its content and the manner in which we undertake our responsibilities under it.

SECTION TWO – ALL ABOUT SOUTHWARK



1. Southwark is London's most historic borough. It has witnessed and participated in a wide variety of important events over the centuries, playing a crucial role not only in London's history but shaping the very world we live in today.
2. Southwark is made up of eight very distinctive neighbourhoods that extend along the river Thames and down into southeast London. The borough encompasses some of London's top attractions (e.g. Tate Modern, the Globe Theatre and the London Dungeons); creative hotspots (e.g. Camberwell College of Arts and the Design Museum); and acclaimed green spaces (e.g. Peckham Rye and Dulwich Park).
3. Southwark also offers a wide-range of leisure and cultural opportunities, including a vibrant late night-economy; which makes a significant economic and employment contribution to the local community. The north of the Borough, with considerable development currently taking place (e.g. the London Bridge and Blackfriars Station redevelopments; the Shard; and More London) is recognised as one of London's fastest growing tourist quarters and a thriving business location.
4. The 2011 census indicated that Southwark's population had reached 288,300, representing a 12.3% increase since the 2001 census. Southwark has a large percentage of its population aged between 25 and 34. 12.4% of residents are aged between 25 and 29, the single highest five year age band in Southwark. The total number of households in Southwark is estimated as 120,400, an increase of 13.8% since 2001. Southwark has the ninth highest population density in England and Wales at 9,988 per square kilometre.
5. The population has a young demographic profile and demonstrates rich ethnic and cultural diversity, with around one-third of the population from black or ethnic minority communities. Southwark is arguably one of the most diverse areas in the capital.
6. Southwark has its fair share of challenges. The 2010 Index of Multiple Deprivation (IMD) shows that Southwark, overall, is the 4th most deprived London borough and the 33rd nationally. Consequently, the Borough faces many challenges associated with meeting the complex health and social needs of an inner-city population. Southwark's unemployment rate is 10.5% compared with the London rate of 9.1% and 7.7% nationally. The percentage of the working population claiming benefits in Southwark is 14.2%

Leading Southwark

7. Southwark is made up of 21 wards, with 63 councillors; three from each ward. These councillors sit on the Council Assembly, which is the "sovereign" body of the Council. The assembly is chaired by the Mayor of Southwark and is responsible for approving the budget and policy framework. Currently Labour holds 34 seats, the Liberal Democrats hold 25 and the Conservatives hold 3 seats, and there is one independent seat held. The council has a Labour administration.
8. The council operates a leader / cabinet model. The Cabinet is headed by the Leader of the Council and the Deputy Leader, with a further eight members holding portfolios of
 - Children's services;

- Corporate strategy and regeneration;
 - Culture, leisure, sport and Olympic legacy;
 - Economic development and community engagement;
 - Finance, resources and community safety;
 - Health and adult social care;
 - Housing management; and
 - Transport, environment and recycling.
9. The Cabinet is responsible for leading the community planning and consultation process, drafting the budget and policy framework, and taking most decisions on resources and priorities.
10. Scrutiny committees take a close look at council decisions and activities and calls for the council to be open and accountable. They examine services provided by the council and review the council's budget and policies. Scrutiny can look at, or 'call-in' decisions made by the cabinet and recommend decisions are changed or reconsidered.
11. A licensing committee is established to consider licensing policy. Contested licence applications are considered by sub-committees of the main committee (see table 1 in Section 4 of this document). Licensing matters fall under the responsibility of the cabinet member for finance, resources and community safety;
12. Community councils are part of the council's decision making process. They provide a focal point for discussion on local matters. Local ward councillors sit on the community councils and take decisions relating to key areas such as:
- Traffic management;
 - Community safety;
 - Environmental improvements;
 - Community council fund;
 - Cleaner, greener safer capital scheme; and
 - Cleaner, greener safer revenue fund.
13. Community Council meetings also provide a forum for consultation with local people and an opportunity for residents to influence how council services are delivered.
14. The five community councils are:
- Bermondsey and Rotherhithe;
 - Borough, Bankside and Walworth;
 - Camberwell;
 - Dulwich; and
 - Peckham and Nunhead

SECTION THREE – PURPOSE AND SCOPE OF THE POLICY
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Purpose of the policy

15. This policy has four main objectives

- **To reinforce to elected members on the Licensing Committee, the boundaries and power of the local authority as licensing authority and provide the parameters under which these licence decisions are made**
- **To inform licence applicants of the parameters under which this authority will make licence decisions and how a licensed premises is likely to be able to operate within an area**
- **To inform residents and businesses of the parameters under which licence decisions will be made and how their needs will be addressed**
- **To support licensing decisions that may be challenged in a court of law**

Scope of the policy

16. This policy covers matters arising from the range of functions and duties falling to the licensing authority under the Gambling Act 2005. .

17. The main functions of the licensing authority are to:

- Licence premises for gambling activities;
- Consider notices given for the temporary use of premises for gambling;
- Grant permits for gaming and gambling machines in clubs and miners' welfare institutes;
- Regulate gaming and gaming machines in alcohol-licensed premises;
- Grant permits to family entertainment centres (FECs) for the use of certain lower stake gaming machines;
- Grant permits for prize gaming;
- Consider occasional use notices for betting at tracks; and
- Register small societies' lotteries.

18. The authority also has an obligation to provide information to the Gambling Commission, including details of licences, permits and registrations issued.

Definitions

19. "Gambling" is defined in the Act as either gaming, betting, or taking part in a lottery.

- Gaming means playing a game of chance for a prize;
- Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not; and
- A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process, which relies on chance.

Principles to be applied

The licensing objectives

20. In exercising most of their functions under the Gambling Act 2005, the licensing authority must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - Ensuring that gambling is conducted in a fair and open way; and
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.

Other considerations

21. This Licensing Authority also understands that, in carrying out its functions under the Act, it must have regard to the guidance issued by the Gambling Commission. This general principle applies to a number of the authority's functions, including considering temporary use notices and occasional use notices and issuing permits. 'Must have regard' does not mean that the authority must always follow the Guidance to the letter, however, the expectation is that there should be strong and defensible reasons for departing from it.
22. However, the Guidance has a particular role and significance in the context of the principles that must be applied by licensing authorities when exercising their functions in relation to Part 8 of the Act, including premises licences. Section 153 of the Act provides that licensing authorities shall aim to permit the use of premises for gambling in so far as they think it:
- In accordance with any relevant code of practice under section 24;
 - In accordance with any relevant guidance issued by the gambling commission under section 25;
 - Reasonably consistent with the licensing objectives; and
 - In accordance with the authority's own statement of licensing policy.
23. Thereby a licensing authority has no discretion in exercising its function under Part 8 of the Act to grant premises licences where that would mean taking a course which it did not think accorded with the Guidance provided by the Gambling Commission, any relevant code of practice or its own statement of policy; or be consistent with the licensing objectives. In reaching a view that a grant would be in accordance with such Guidance, code of practice or statement of policy, the authority is obliged to act fairly and rationally
24. The authority may depart from its own policy if the individual circumstances of a case merit such decision in promoting the licensing objectives. Where such a decision is taken, full reasons for the departure from the policy will be given.
25. While this statement sets out the council's general approach to the making of licensing decisions, nothing in this statement overrides the right of any person to make an application; make representations about an application; or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

'Demand' for gaming premises

26. Previous legislation required that the grant of certain gambling permissions should take account of whether there is unfulfilled demand for the facilities. Section 153 of the Act makes it clear that unmet demand is not a criterion for licensing authorities in considering applications for premises licences.

Duplication

27. This Authority gives a firm commitment to avoid duplication with other regulatory regimes, as far as is possible. For instance, this Authority recognises that a range of general duties are imposed on the self-employed, employers and operators of gambling premises, both in respect of employees and of the general public, by legislation governing health and safety at work and fire safety. Therefore, such requirements need not be covered in this statement of policy.

Human Rights Act 1998

28. In considering applications and taking enforcement actions under the Act, this authority will bear in mind that it is subject to the Human Rights Act and, in particular:
- Article 1, Protocol 1 – Peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest;
 - Article 6 – The right to a fair hearing;
 - Article 8 – Respect for private and family life. In particular, removal or restriction of a licence may affect a person's private life; and
 - Article 10 – Right to freedom of expression.
29. When applying this licensing policy this Authority will consider whether, in the light of relevant representations made to it, exceptions to these policies should be made in any particular case. In deciding to reject any application this authority shall rely on reasons that demonstrate that the licensing objectives are not being met, or are unlikely to be, met. Moral or ethical reasons are not valid reasons to reject applications for premises licences.

SECTION FOUR – ADMINISTRATION, EXERCISE AND DELEGATION OF THE FUNCTION

30. The ability to provide gaming and betting facilities is dependent upon a range of licences and consents being obtained from the gambling commission and the local licensing authority. This document does not set out to deal with the circumstances under which any one of the available licences or consents may be required, nor does it attempt to set out the applications process.
31. Full information is provided on each of the licences and consents relevant to each individual gambling sector on the gambling commission web site at www.gamblingcommission.gov.uk . All potential operators are referred to this information in the first instance.
32. Further advice on licences and consents issued by this authority may be obtained, together with copies of application forms, from our own web site at http://www.southwark.gov.uk/info/200127/apply_for_a_licence or from the licensing team (see contact details at the end of this document).

Applications – general

33. Applications for any of the variety of licences and consents available from this authority must be made on the form prescribed in regulations laid down by the Secretary of State. Copies may be downloaded from our web site. Applications shall not be progressed until the form has been completed in full and this, together with the relevant fee, and all other required information has been received by the Licensing Authority. Applications will be progressed in accordance with the Act. Prospective applicants should refer to the relevant guidance document for further information.

Provision of scale plans

34. Section 51 of the Act requires applicants to submit plans of the premises with their applications, in order to ensure that the licensing authority has the necessary information to make informed judgement about whether the premises are fit for gambling. The plan will also be used by the licensing authority to plan future premises inspection activity.
35. Applicants should note that this Council requires that current plans in scale 1:100 be submitted with all new applications for premises licences and for any application for a variation of a premises licence, unless otherwise agreed by this authority in writing. Plans need not be professionally drawn but must include all required detail.

Responsible authorities

36. Responsible authorities are public bodies that must be notified of applications and that are entitled to make representations to the licensing authority in relation to applications for, and in relation to, premises licences. All representations made by responsible authorities are likely to be relevant representations if they relate to the licensing objectives. Section 157 of the Act identifies the bodies that are to be treated as responsible authorities. They are:
 - Each licensing authority within whose area the premises is wholly or partly situated;

- The Gambling Commission;
 - The Commissioner of the Metropolitan Police Authority;
 - The Chief Officer of the London Fire and Emergency Planning Authority;
 - The local planning authority;
 - The local environmental health service;
 - The Southwark Safeguarding Children Board (being the body designated in writing by this authority as being competent to advise about the protection of children from harm;
 - The Southwark Safeguarding Adults Partnership (being the body designated in writing by this authority as being competent to advise about the protection of vulnerable adults; and
 - HM Revenue & Customs.
37. The principles applied by this authority in exercising its powers under section 157(h) of the Act to designate, in writing, bodies competent to advise the authority about the protection of children and vulnerable adults from harm are:
- The need for the body to be responsible for an area covering the whole of Southwark; and
 - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc
38. Section 211 (4) of the Act provides that in relation to a vessel, but no other premises, responsible authorities also include navigation authorities, that have statutory functions in relation to the waters where the vessel is usually moored or berthed, or any waters where it is proposed to be navigated at a time when used for licensable activities. This includes:
- The Environment Agency;
 - The British Waterways Board; and
 - The Secretary of State
39. The contact details of all the responsible bodies under the Gambling Act 2005 are provided at the end of this document.

Interested parties

40. Interested parties are also entitled to make representations concerning applications for premises licences, or apply for a review of an existing licence. Interested parties are defined in the Act as follows:
41. “A person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:
- ***Lives sufficiently close to the premises to be likely to be affected by the authorised activities;***
 - ***Has business interests that might be affected by the authorised activities; or***
 - ***Represents persons in either of these two groups.”***
42. This authority will consider whether a person is an interested party on a case by case basis, taking all relevant factors into account.

People living close to the premises

43. The factors that this Authority will take into account when determining what 'sufficiently close to the premises' means will include:
- The size of the premises;
 - The nature of the premises;
 - The distance of the premises from the location of the person making the representation;
 - The potential impact of the premises (number of customers, routes likely to be taken by those visiting the premises);
 - The circumstances of the complainant. This is not to be taken as the personal characteristics of the complainant, but the interests of the complainant which may be relevant to the distance from the premises. For example, it may be reasonable to conclude that 'sufficiently close to be likely to be affected' could have a different meaning for (a) a private resident; (b) residential school for children with truanting problems; and (c) a residential home for vulnerable adults.

The nature and scope of business interests that could be affected

44. When considering the matter of business interests, this Authority will give the term the widest possible interpretation and include such as partnerships, faith groups, educational establishments; and medical practices.
45. As to whether a person has business interests that might be affected by the premises under consideration, factors that are likely to be relevant will include:
- The size of the premises;
 - The catchment area of the premises (that is how far people travel to visit the premises); and
 - Whether the person making the representation making the representation has business interests in that catchment area that might be affected.

People representing those in the above categories

46. Interested parties includes democratically elected representatives, including local ward councillors; the Community Council; and MPs.
47. Any other relevant representation made on behalf of qualifying interested parties will also be considered for acceptance on a case by case basis with all relevant matters taken into account. The authority will generally require written evidence that the person / body concerned does represent the interested party or parties stated. In the case where a meeting has been convened at which the decision to raise a representation has been made a copy of the formal minute of the meeting should be supplied. For cases where a representation is to be submitted by a friend, family member, advocate or similar, a proforma authorisation form is available on the licensing web site or upon request from the licensing office.
48. If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the licensing sub-committee dealing with the licence application. If there are any doubts then please contact the licensing service (*see contact details provided at the end of this document*).

Consultation arrangements

49. This authority considers it important that the local community is fully aware of local licensing applications being made within its area. Requirements for applicants to advertise applications for new and varied premises licences by way of a public notice displayed at the premises and in the local press are laid down under statute. No applications for licences will be progressed by this Council unless all public consultation requirements are met in full. Checks will be made to ensure that notices at application premises are displayed, so as to be clearly seen by passers by and maintained in position for the length of the consultation period.
50. As an additional aide to community awareness the licensing service has established a public register at <http://app.southwark.gov.uk/licensing/licenseregister.asp> upon which detail of all current licence applications under consideration (alongside detail of currently licensed premises) will be maintained. It is open to any person who wishes to be kept abreast of the latest applications to subscribe to “licensing alerts”, by which e-mail notifications will be sent to those who have registered, when a new licence application is made within the relevant ward. Furthermore, the licensing service will ensure that local ward councillors are informed of all new applications in their area.

Representations

51. It is open to any “responsible authority” or “interested party”, to lodge representations in respect of an application for a premises licence during the set consultation period. A representation would only be “relevant” if it relates to one or more of the licensing objectives, or raises issues under the policy statement, or under the commission’s guidance or codes of practice.
52. The commission’s guidance for local authorities advises that “moral objections to gambling are not a valid reason to reject applications for premises licences” (except as regards any ‘no casino resolution’ see section on casinos) and also that unmet demand is not a criterion for a licensing authority.
53. It is also for the licensing authority to determine on its merits whether any representation by an interested party is “frivolous” or “vexatious”.
54. When considering whether any representation made to it is “frivolous” or “vexatious” the authority will consider matters such as:
- Who is making the representation, and whether there is a history of making representations that are not relevant;
 - Whether it raises a “relevant” issue” or
 - Whether it raises issues specifically to do with the premises that are the subject of the application.
55. Representations must be received in writing at the licensing service office by the last date for representations. Representations must be signed, dated, provide the grounds of representation in full and include the name and address of the person / body making the representation.
56. Where representations are being made by a trade association, trade union, residents’ and tenants’ association, or similar, information must be provided on

the membership that live sufficiently close to the premises to be classed as interested parties.

57. Further information, including an outline of the process that is followed at public hearings, can be found in the separate document, "Guidance to the Hearing of Representations and Licence Reviews".

Determinations

58. Section 154 of the act provides that all decisions relating to premises licences are delegated to the licensing committee of the authority that has been established under section 6 of the Licensing Act 2003 except:
- A resolution not to issue casino licences;
 - Functions in relation to the three year licensing policy; and
 - Setting fees.
59. Decisions that are delegated to a Licensing Committee may be further delegated to a sub-committee of the Licensing Committee. The Council's Licensing Committee is established with provision for sub-committees of three members to be drawn from the overall pool of the main committee membership.
60. The Council intends to establish a speedy, efficient and cost-effective licensing system and, thereby, where the Act carries a presumption of grant for non-contentious applications, these matters will be delegated to officers. All such matters will be reported for information and comment only to the next full licensing committee meeting.
61. Where matters are subject of representations, this Council will normally attempt to reach a negotiated outcome through our conciliation process. Conciliation is offered as we recognise that the best solutions are normally ones that all concerned parties can sign up to and in order to attempt to save the time and costs associated with holding a public hearing. Conciliation will be attempted up until 24 hours before the arranged hearing date. Where it is not possible to reach agreement, the application and representations will be determined by the sub-committee.
62. Table 1 below sets out proposals for the delegation of decisions and functions to licensing committee, sub-committees and officers. This form of delegation is without prejudice to the council's right to redirect an application as appropriate in the circumstances of any particular case.

Table 1 – Delegation of decisions and functions			
Matter to be dealt with	Full council	Sub-committee of licensing committee	Officers
Final approval of three year policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)	X		
Application for premises licence		Where representations have been received and not withdrawn	Where no representations received or representations withdrawn
Application for a variation to a premises licence		Where representations have been received and not withdrawn	Where no representations received or representations withdrawn
Application for a transfer of a premises licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received or representations withdrawn
Review of a premises licence		X	
Application for a club gaming / club machine permit		Where objections have been made (and not withdrawn)	Where no objections have been made / objections have not been withdrawn.
Cancellation of a club gaming / club machine permit		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

Licence reviews

63. Requests for a review of a premises licence can be made by interested parties or responsible authorities. Such applications must be submitted to the licensing authority in the prescribed form, stating the reasons why a review is being requested.
64. An application for a review may be rejected if this authority thinks that the grounds on which the review is requested:
- Are not relevant to the principles that must be applied by the licensing authority;
 - Are frivolous or vexatious;
 - Will certainly not cause the authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;
 - Are substantially the same as the grounds cited in a previous application relating to the same premises; or
 - Are substantially the same as representations made at the time the application for a premises licence was considered.
65. The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
66. The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:
- Add, remove or amend a licence condition imposed by the licensing authority;
 - Exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
 - Suspend the premises licence for a period not exceeding three months; and
 - Revoke the premises licence.
67. In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
68. In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
69. Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:
- The licence holder;
 - The applicant for review (if any);
 - The commission;
 - Any person who made representations;
 - The chief officer of police or chief constable; and
 - Her Majesty's Commissioners for Revenue and Customs

70. Further information, including an outline of the process that is followed at review hearings, can be found in the separate document "Guidance to the Hearing of Representations and Licence Reviews".

Exchange of Information

71. Licensing authorities are required to include in their policy statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the gambling commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
72. The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any guidance issued by the gambling commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
73. Should any protocols be established as regards information exchange with other bodies then they will be made available.

SECTION FIVE – PREMISES LICENCES

Introduction

74. This section considers the licensing objectives and some of the matters that this licensing authority may consider when determining applications for premises licences under the Act. It also sets out this authorities approach to the setting of conditions on premises licences.
75. When considering matters in this section, the authority will have regard to any guidance or codes of practice issued by the Secretary of State and / or the Gambling Commission which may relate to a specific premises or category of premises.
76. In the interests of good practice, this licensing authority will expect applicants to offer their own measures to meet the licensing objectives based on a risk-assessment approach. However, advice may be obtained from any of the responsible bodies when preparing a licence application.
77. While this section sets out some of the expectations of the authority and the responsible bodies, the authority will, however, always treat each case on its own individual merits

Primary gambling activity

78. In accordance with section 150 of the Act, premises licences can authorise the provision of facilities on:
- Casino premises;
 - Bingo premises;
 - Betting premises, including tracks;
 - Adult gaming centres; and
 - Family entertainment centres.
79. By distinguishing between premises types the Act makes it clear that the primary activity of the premises should be that described. For instance, in a bingo premises, the primary activity should be bingo, with gaming machines as an ancillary offer on the premises.
80. This authority will refer to current advice provided by the Gambling Commission in establishing compliance with primary gambling requirements.

Definition of “premises”

81. In the Act, “premises” is defined as “any place”.
82. Section 152 prevents more than one premises licence applying to any place. However, there is no reason in principle why a single building could not be subject to more than one premises licence, provided each licence is for a different part of the building and each part of the building can be reasonably regarded as being different premises. This approach allows large, multiple unit premises such as a pleasure parks, tracks or shopping malls to obtain discrete premises licences, where appropriate safeguards are in place. However, this

authority will pay particular attention to issues around sub-division of a single building or plot and will ensure that mandatory conditions relating to access between premises are observed.

83. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing team. However, it should be noted that this authority does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can be properly regarded as different premises.
84. This authority also takes particular note of the Commission's guidance which states that: licensing authorities should take particular care in considering applications for multiple premises licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating;
 - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit; and
 - Customers should be able to participate in the activity named on the premises licence.
85. Factors that this authority might consider in determining whether two or more premises are truly separate, include:
- Is a separate registration for business rates in place for the premises?
 - Is the neighbouring premises owned by the same person or someone else?
 - Can each of the premises be accessed from the street or a public passageway?
 - Can the premises only be accessed from any other gambling premises?

Relationship between planning permission, building regulations and granting of a premises licence

86. In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, in effect those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Licensing authorities are advised to bear in mind that a premises

licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. This is why the Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them.

87. As the Court has held in the case of *The Queen (on the application of) Betting Shop Services Ltd V Southend on Sea Borough Council* (2008), operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits. Such cases should be considered in a two stage process;
- Firstly, licensing authorities must decide whether, as a matter of substance after applying the principles in section 153 of the Act, the premises ought to be permitted to be used for gambling; and
 - Secondly, in deciding whether or not to grant the application a licensing authority will need to consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place. An authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.
88. For example, where the operator has still to undertake final fitting out of the premises but can give a reasonably accurate statement as to when the necessary works will be completed, it may be sufficient to simply issue the licence with a future effective date. The application form allows the applicant to suggest a commencement date and the notice of grant allows the licensing authority to insert a date indicating when the premises licence comes into effect. In other cases, it may be appropriate to issue the licence subject to a condition that trading in reliance on it shall not commence until the premises have been completed in all respects in accordance with the scale plans that accompanied the licence application. If changes to the pre-grant plans are made, then parties who have made representations should be able to comment on the changes made.
89. If the plans submitted at the time of the application for a premises licence are changed in any material respect during the fitting out of the premises after the grant of the licence, then the applicant will be in breach of the licence. If the applicant wishes to change the proposed plans after grant then, in order to avoid breaching the licence, it will be necessary for the applicant to either make a fresh application under section 159 or seek an amendment to a detail of the licence under section 187 of the Act. If there are substantive changes to the plans, then this may render the premises different to those for which the licence was granted. In such a case, variation of the licence under section 187 is not possible. For this reason, and while this is a matter of judgement for the authority, we consider it would be more appropriate in the case of any material post grant change, for the applicant to make a fresh application under section 159 to preserve the rights of interested parties and responsible authorities to make representations in respect of the application.

90. This authority will need to be satisfied in any individual case that the completed works comply with the original, or changed, plan attached to the premises licence. Depending upon circumstances, we consider that this could be achieved either through physical inspection of the premises or written confirmation from the applicant or surveyor that the condition has been satisfied.
91. Requiring the building to be complete before trading commences would ensure that the authority could, if considered necessary, inspect it fully, as could other responsible authorities with inspection rights under Part 15 of the Act. Inspection will allow authorities to check that gambling facilities comply with all necessary legal requirements. For example, category C and D machines in a licensed family entertainment centre must be situated so that people under 18 do not have access to the category C machines. The physical location of higher stake gaming machines in premises to which children have access will be an important part of this, and inspection will allow the authority to check that the layout complies with the operator's proposals and the legal requirements.
92. If faced with an application in respect of uncompleted premises which it appears are not going to be ready to be used for gambling for a considerable period of time, this authority will consider whether, applying the two stage approach advocated in section 86 above, it should grant a licence or whether the circumstances are more appropriate to a provisional statement application. For example, the latter would be the case if there was significant potential for circumstances to change before the premises opens for business. In such cases, the provisional statement route would ensure that the limited rights of responsible authorities and interested parties to make representations about matters arising from such changes of circumstance are protected.
93. When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. Section 210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally, the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

Provisional statements

94. S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
- Expects to be constructed:
 - Expects to be altered; or
 - Expects to acquire a right to occupy.
95. Developers may wish to apply to this authority for provisional statements before they enter into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. It is also possible for an application to be made for premises that

already have a premises licence (either for a different type of gambling or the same type).

96. Applicants for premises licences must fulfil certain criteria. They must hold or have applied for an operating licence from the Commission (except in the case of a track) and they must have the right to occupy the premises in respect of which their premises licence application is made. However, these restrictions do not apply in relation to an application for a provisional statement.
97. Once the premises are constructed, altered or acquired the holder of a provisional statement may then apply for a premises licence. The licensing authority will be constrained in the matters it can consider when an application for a premises licence is made subsequently in relation to the same premises. No further representations from relevant authorities or interested parties can be taken into account unless:
 - They concern matters which could not have been addressed at the provisional statement stage, or
 - They reflect a change in the applicant's circumstances
98. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
 - Which could not have been raised by objectors at the provisional statement stage;
 - Which in the authority's opinion reflect a change in the operator's circumstances; or
 - Where the premises has not been constructed in accordance with the plan and information submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

The Licensing Objectives

99. Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the gambling commission's guidance to local authorities and some comments are made below.

Objective 1 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

100. This licensing authority is aware that the gambling commission takes a leading role in preventing gambling from being a source of crime and that licensing authorities will not need to investigate the suitability of an applicant.
101. The commission's guidance does, however, envisage that licensing authorities may need to consider the location of premises in the context of this licensing objective. If an application for a licence or permit is received in relation to premises that are in an area noted for particular problems with organised crime, for example, this authority will consider what controls (if any) might be appropriate to prevent those premises being a source of crime.
102. Thereby, where representations are received to premises licence applications under the crime and disorder objective, this authority will give appropriate

consideration to the location of the premises (see separate section below) and also to issues such as:

- The configuration, design and layout of the premises, paying particular attention to steps taken to “design out” crime;
- Security arrangements within the premises, including whether CCTV is installed and, if so, the standard of the CCTV and the positioning of cash registers;
- Training provided to staff around crime prevention measures
- The level of staffing provided at the premises, including whether door supervisors are employed;
- The arrangements in place to conduct age verification checks
- Steps taken to redress the recurrence of any historical crime and disorder issues; and
- The likelihood of any violence, public disorder or policing problems if the licence is granted.

103. The above list is not exhaustive.

104. Where it is considered necessary for the promotion of the crime and disorder objective, this authority will impose appropriate conditions. In doing so, this licensing authority would note that it is aware of the distinction between disorder and nuisance in the case of gambling premises licences and that disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it.

Objective 2 - Ensuring that gambling is conducted in a fair and open way

105. This licensing authority has noted that the gambling commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

Objective 3 - Protecting children and other vulnerable persons from being harmed or exploited by gambling

106. With limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and be prevented from entering those gambling premises which are adult-only environments.

107. The third objective refers to protecting children from being harmed or exploited by gambling. That means preventing them from taking part in gambling and for there to be restrictions on advertising so that gambling products are not aimed at children in such a way that makes them attractive to children, excepting Category D machines.

108. This authority is aware that the Gambling Commission’s general licence conditions and associated codes of practice under the Gambling Act 2005 (October 2008) include requirements made under operating licences that licensees must have and put into effect social responsibility policies and procedures designed to prevent underage gambling and monitor the effectiveness of these.

109. In order that this authority and the other responsible authorities are able to make a proper informed judgement as to the effectiveness of these policies and procedures, it is requested that copies of the relevant documents are submitted for consideration as part of the application for any new, varied or transferred premises licence. These will be considered upon their individual merits.
110. Where concerns are raised under the representation system, consideration will be given to whether specific measures are required at particular premises with regard to this licensing objective.

Preventing children from taking part in gambling

111. It is noted that the Act allows children (under 16) and young persons (16 – 17) to take part in private and non-commercial betting and gaming, but places the following restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place:
- Casinos cannot admit anyone under 18;
 - Regional casinos cannot permit under 18s into the gambling area;
 - Betting shops cannot admit anyone under 18;
 - Bingo clubs may admit those under 18 but must have policies to ensure they do not gamble, except on category D machines;
 - Adult entertainment centres cannot admit those under 18;
 - Family entertainment centres and premises with liquor licences (eg pubs) can admit under 18s, but they must not play category C machines which are restricted to those over 18;
 - Clubs with a club premises certificate can admit under 18s, but they must have policies to ensure those under 18 do not play machines other than category D machines;
 - Horse and dog tracks can admit under 18s and they may have access to gambling areas on race days only. Tracks will be required to have policies to ensure that under 18s do not participate in gambling other than on category D machines.
112. Accordingly, this authority will wish to ensure that these restrictions are complied with.
113. This licensing authority will expect applicants to offer their own proposals to achieve the licensing objective. However, there are a range of measures and controls that this authority and the other responsible authorities would recommend that consideration is given to where appropriate:
- The use of proof of age schemes;
 - The installation of CCTV systems with the maintenance of a 31 day library of recordings;
 - The supervision of entrances to the premises and / or machine areas;
 - The physical separation of areas;
 - Careful consideration as to the location of entrances;
 - The provision of suitable notices / signage; and
 - Setting of specific opening hours
114. This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

115. As assistance to prospective licensees, the minimum expectations of this authority and the responsible bodies in relation to proof of age are given in table 2 below with issues shown as being, in our view, either essential or desirable.

Table 2 – Proof of age schemes	
Essential	That notices shall be displayed informing customers and staff that under 18s will not be admitted to the premises or will not be permitted to take part in gambling activities (as applicable) and that age identification will be required
Essential	That a proof of age compliance scheme shall be established and maintained. The scheme shall require the production of evidence of age (comprising any PASS accredited card or passport or driving licence) from any person appearing to staff to be under the age of 18 and who is attempting to enter the premises or, where admission of under 18s is permitted, who is attempting to take part in gambling. Evidence of this scheme (in the form of documented procedures) shall be made available for inspection by authorised officers.
Desirable	That a “Challenge 25” or “Think 25” proof of age compliance scheme shall be established and maintained. The scheme shall require the production of evidence of age (comprising any PASS accredited card or passport or driving licence) from any person appearing to staff to be under the age of 25 and who is attempting to enter the premises or, where admission of under 18s is permitted, who is attempting to take part in gambling. “Think 25” or “Challenge 25” notices shall be displayed informing customers and staff that admission to the premises will not be given to anyone appearing to be under 25 unless they can prove they are 18 or over. Evidence of this scheme (in the form of documented procedures) shall be made available for inspection by authorised officers.
Essential	That all staff shall be trained in the premises proof of age compliance scheme and records of such training shall be retained on the premises and made available for inspection by authorised officers.
Essential	That an incident log shall be maintained and details of all age related refusals recorded. This book shall be reviewed monthly by the nominated responsible member of staff and any actions taken recorded in the book and signed off by that member of staff. This log shall be retained on the premises and made available for inspection by authorised officers.
Desirable	That, if a CCTV recording system is installed inside the premises, it shall be so arranged as to monitor each entrance and exit and the gaming areas. A library of recordings taken by the system shall be maintained for 31 days and made available to authorised officers upon request.

The Southwark proof of age (SPA) card

116. In order to assist businesses avoid illegal underage sales and gambling the council's trading standards service administers a local PASS approved proof of age card. PASS approved proof of age cards are supported by the Home Office and ACPO (Association of Chief Police Officers).

117. The SPA card is available to 16-25 year olds by direct application or may be issued via their school or other educational establishment.
118. There are currently around 6,000 SPA cards in circulation and many of Southwark secondary schools and colleges have a process in place to make the card available to all students.
119. Further information on introducing a proof of age compliance scheme, and free in store signage, can be obtained by contacting the trading standards service - for contact details see section 9.
120. Note: In detailing the council's recommended approach to underage sales, it is recognised that some sales may be made through intimidation or fear. Licensees experiencing such problems are advised to discuss their situation with licensing or trading standards officers. Furthermore, the Council's health and safety team offers conflict resolution training aimed at helping deal with the threat of violence and aggression in the workplace. For details please contact the licensing service - for contact details see section 9.

Restriction to areas where category C or above machines are on offer

121. This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:
- All such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance; and
 - Only adults are admitted to the area where the machines are located; and
 - Access to the area where machines are located is supervised at all times, either by one or more persons whose responsibilities include ensuring that under 18s do not enter the area or by CCTV observed by one or more persons whose responsibilities include ensuring that under 18s do not enter the area; or
 - The areas where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
 - A notice stating that no person under the age of 18 is permitted to enter the area must be displayed in a prominent place at the entrance to the area.
122. These considerations, will apply to premises including buildings where multiple premises licences are applicable.

Restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children

123. The Gambling Act 2005 removed virtually all of the existing statutory restrictions on the advertising of lawful gambling conducted in Great Britain. Responsibility for the advertising by gambling operators will be shared by the Secretary of State, the Commission, and the advertising regulatory bodies. We note, however, that the commission's codes of practice require all advertising of gambling products to be undertaken in a socially responsible manner, consistent with the advertising codes of practice which apply to the form and

media in which they advertise their gambling services. This authority understands that the following general principles apply:

- Not to encourage irresponsible or excessive gambling;
- Not to seek to harm or exploit children, the young, or other vulnerable persons;
- Not to direct advertisements at those under 18; and
- Only to feature in their advertisements people who are, and seem to be, over 25

124. This authority may accept that further conditions on this matter should not normally be necessary, but all issues of non-compliance with the code will be rigorously investigated and reported to the relevant authorities.

Protection of vulnerable people

125. The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children.

126. This authority notes that the Commission does not seek to define 'vulnerable people', but it does for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental health needs learning disability or substance misuse relating to alcohol or drugs. This licensing authority will consider this licensing objective on a case by case basis.

127. This authority notes that the commission's codes of practice place general requirements on operators to put into effect policies and procedures which promote socially responsible gambling. In particular, the codes of practice place responsibilities upon licensees to make information available to their customers on how to gamble responsibly and how to access information about, and help in respect of, problem gambling. The information is required to cover:

- Any measures provided by the licensee to help individuals monitor or control their gambling, such as restricting the duration of a gambling session or the amount of money they can spend;
- Timers or other forms of reminders or reality checks where available;
- Self-exclusion options; and
- Information about the help of further help or advice.

128. Again, the codes of practice do not require an operator to inform the licensing authority and other responsible authorities of these policies and procedures when applying for the premises licence. However, in order that this authority and the other responsible authorities are able to make a proper informed judgement as to the suitability of these policies and procedures, this authority asks that copies of the relevant documents be submitted to the appropriate authorities for consideration as part of the application for any new, varied or transferred premises licence. These will be considered upon their individual merits. If concerns are raised under the representations system then, consideration will be given to additional relevant conditions.

129. This authority and the other responsible authorities would expect that:

- Self-exclusion schemes introduced are clearly publicised on licensed premises; and
- That information is made publically available about organisations that can provide advice and support, both in relation to gambling itself and to debt, for example for gambling addiction - Gamcare, Gamblers Anonymous, and the Gordon House Association; and for debt counselling Blackfriars Advice Service and National Debtline.

130. While the value of self-exclusion schemes is recognised, the authority would emphasise that these should not relieve responsibility from staff to be alert to any customers who are exhibiting signs of 'problem gambling' and from providing support where possible.

Location

131. This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's guidance to licensing authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

132. In pursuit of these objectives, when determining applications for premises licences, this authority will have regard to the location of the premises. The authority will give special consideration in relation to the proximity of premises to

- **Local schools, youth clubs, shops, parks, leisure and recreational establishments and any other similar premises directed at, or primarily used by children or families;**
- **Places where vulnerable people are housed or treated, including clinics, recovery centres, outpatients clinics and homes;**
- **Residential areas where there is a high concentration of children and young people or vulnerable people;**
- **Areas where there is a high level of organised crime;**
- **Places of worship, community facilities or public buildings; and**
- **Areas where there is considered to be an over concentration of similar existing licensed operation**

133. This list is not exhaustive.

134. It should be noted, however, that this policy does not preclude any application being made and each application will be decided upon its own merits, with the onus being on the applicant showing how potential concerns can be overcome.

135. Although this authority recognises that nuisance is not one of the three stated licensing objectives and that the guidance to the Act states that disorder is intended to mean activity that is more serious and disruptive than nuisance, this authority will receive information from the Council's environmental protection team on nuisance issues as being relevant to matters of location of premises.

Conditions generally

136. This authority understands that mandatory conditions will be attached to all premises licences. The mandatory conditions specify the number of gaming

machines of particular categories in each type of gambling premises. They also require that:

- The summary of the terms, conditions and restrictions of the premises licence issued by the licensing authority must be displayed in a prominent place on the premises;
- The layout of the premises must be maintained in accordance with the plan that forms part of the premises licence;
- Neither national lottery products nor tickets in a private or customer lottery may be sold on the premises; and
- That, facilities for gambling must not be provided on Christmas Day.

137. Section 169 of the Act gives licensing authorities:

- The ability to exclude from premises licences any default conditions that have been imposed under s168; and
- The power to impose additional conditions on the premises licences they issue.

138. However, this authority understands that it has a duty to act in accordance with the principles set out in section 153 of the Act and that as it must aim to permit the use of premises for gambling, it may not attach conditions that limit the use of premises for gambling, except where that is necessary as a result of the requirement to act:

- In accordance with the guidance issued by the commission, the commission's codes of practice or it's own licensing policy statement; and
- In a way that is reasonably consistent with the licensing objectives.

139. This authority also understands that it should not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions.

140. This authority also notes that it is the Commission's view that the conditions necessary for the general good conduct of gambling premises are those set as default and mandatory conditions by the Secretary of State.

141. This authority will attach individual additional conditions to licences, however, where there are specific, evidenced risks or problems associated with a particular locality, or specific premises, or class of premises.

142. This authority will aim to ensure that such conditions imposed upon premises licences will be proportionate to the circumstances it is sought to address. In particular, premises licence conditions should be:

- Relevant to the need to make the proposed building suitable as a gambling facility;
- Directly related to the premises and the type of licence applied for;
- Fairly and reasonably related to the scale and type of premises; and
- Reasonable in all other respects.

143. This authority will take decisions on individual conditions on a case-by-case basis, against the background of the general policy set out in guidance and the statement of licensing policy.

144. It is noted that there are conditions which the licensing authority cannot attach to premises licences. These are:

- Any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- Conditions relating to gaming machine categories, numbers, or method of operation;
- Conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated) and
- Conditions in relation to stakes, fees, winning or prizes.

Door supervisors

145. Where this authority chooses to attach a condition to a premises licence in respect of for door supervision (i.e. a condition requiring someone to be responsible for guarding the premises against unauthorised access or occupation, against outbreaks of disorder or against damage) any requirement for that person to be licensed under the Private Security Industry Act 2001 must be treated as though it were a condition of the premises licence.

Casinos

146. This licensing authority has not passed a 'no casino' resolution under section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be taken by the full council assembly.

Adult gaming centres

147. This authority notes that the following specific mandatory conditions must be added to each AGC premises licence:

- That a notice must be displayed at all entrances to AGCs stating that no person under the age of 18 years will be admitted to the premises:
- That there can be no direct access between an AGC and any other premises licensed under the Act or premises with a family entertainment centre, club gaming, club machine or licensed premises gaming machine permit;
- Any Automated Telling Machine (ATM) made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so; and
- The consumption of alcohol in AGCs is prohibited at any during which facilities for gambling are being provided on the premises. A notice stating this should be displayed in a prominent place at every entrance to the premises.

148. This authority will wish to have specific regard to the location of and entry to AGCs to minimise the opportunities for children to gain access. This may be of particular importance in areas where young people may be unsupervised for example, where an AGC is in a complex, such as a shopping centre.

Bingo premises

149. This authority notes that the following specific mandatory conditions must be attached to each bingo premises licence:

- That a notice stating that no person under the age of 18 years is permitted to play bingo on the premises shall be displayed in a prominent place at every entrance to the premises;
- That no customer shall be able to enter bingo premises direct from a casino, an adult gaming centre or betting premises;
- That over 18 areas within bingo halls that admit under 18s must be separated by a barrier with prominently displayed notices stating that under 18s are not allowed in that area and with adequate supervision in place to ensure that children and young people are not able to access these areas or the category B or C machines. Supervision may be done by placing the terminals within the line of sight of an official of the operator or via monitored CCTV;
- That any admission charges, the charges for playing bingo games and the rules of bingo must be displayed in a prominent position on the premises. Rule scan be displayed on a sign, by making available leaflets or other written materials containing the rules, or running an audio-visual guide to the rules prior to any bingo game being commenced; and
- That any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.

150. This authority notes that the following default condition will be placed upon bingo premises licences unless this authority chooses to exclude it:

- That bingo facilities within bingo premises may not be offered between the hours of midnight and 0900. However, there are no restrictions on access to gaming machines in bingo premises.

151. This authority will need to satisfy itself that bingo can be played in any bingo premises for which it issues a premises licence. This is a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

152. Children and young people are allowed into bingo premises, however, they are not permitted to participate in bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

Betting premises

153. This authority notes that the following mandatory conditions must be attached to each betting premises licence (non-track):

- That a notice shall be displayed at all entrances to the betting premises stating that no person under the age of 18 years will be admitted. The notice should be clearly visible to people entering the premises;
- There must be no access to betting premises from other premises that undertake a commercial activity (except from other premises with a betting premises licence including tracks). Except where it is from other licensed betting premises, the entrance to a betting shop should be from a

street (defined as any bridge, road, lane, footway, subway, square, court, alley or passage – including passages through enclosed premises such as shopping centres – whether a thorough fare or not);

- That any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming machine or betting machine in order to do so.
- That no apparatus for making information or any other material available in the form of sounds or visual images may be used on the licensed premises, except where used to communicate:
 - Information about the coverage of sporting events, including information relating to betting on such events (and incidental information including advertisements); or
 - Information relating to betting (including results) on any event in connection with which bets may have been effected on the premises.
- No music, dancing or other entertainment is permitted on betting premises;
- The consumption of alcohol is prohibited;
- The only publications that may be sold or made available on the premises are racing periodicals or specialist betting publications; and
- That a notice setting out the terms on which a bet may be placed must be displayed in a prominent position on the premises.

154. This authority notes that the following default condition will be placed upon bingo premises licences unless this authority chooses to exclude it:

- That gambling facilities may not be offered in betting premises between the hours of 2200 on one day and 0700 on the next day, or any day.

155. Section 181 of the Act contains an express power for licensing authorities to restrict the number of betting machines, their nature and circumstances in which they are made available by attaching a licence condition to betting premises licence. When considering whether to impose such condition, this authority will take into account, among other things, the size of the premises; the number of counter positions available for person to person transactions, and the ability of employees to monitor the use of the machines by children and young people or by vulnerable people.

156. This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure, for example, that under 18 year olds do not have access to the premises.

(Licensed) family entertainment centres

157. This authority notes that the following mandatory conditions must be attached to each family entertainment centre premises licence:

- The summary of the terms, conditions and restrictions of the premises licence issued by the licensing authority must be displayed in a prominent position within the premises;
- The layout of the premises must be in accordance with the plan;
- The premises must not be used for the sale of tickets in a private lottery or customer lottery, or the National Lottery;

- No customer shall be able to enter the premises directly from a casino, an adult gaming centre or betting premises (other than a track);
 - Any ATM made available for use on the premises must be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so;
 - Over 18 areas within FECs that admit under 18s must be separated by a barrier with prominently displayed notices at the entrance stating that under 18s are not allowed in that area and with adequate supervision in place to ensure that children and young persons are not able to access these areas or the category C machines. Supervision may be done by placing the terminals within the line of sight of an official of the operator or via monitored CCTV. And
 - The consumption of alcohol in licensed FECs is prohibited at any time during which facilities for gambling are being provided. A notice stating this should be displayed in a prominent position on the premises
158. This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.
159. Given that this category of premises is one to which children may properly have access, operators should also consider measures / training for staff on how to deal with suspected truant school children upon the premises.

SECTION SIX – PERMITS / TEMPORARY & OCCASIONAL USE NOTICES

Introduction

160. The following part of this policy considers the various permits that this licensing authority is responsible for issuing under the Act. These are:

- Family entertainment centre gaming permits;
- Club gaming permits and club machine permits;
- Prize gaming permits; and
- Notifications from holders of alcohol licences that they intend to exercise their automatic entitlement to two gaming machines.

161. Licensing authorities may only grant or reject an application for a permit. There is no provision to attach conditions.

Unlicensed family entertainment centre gaming machine permits (statement of principles on permits – schedule 10 paragraph 7)

162. Where a FEC does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for a permit.

163. The licensing authority may grant or refuse an application for a permit, but cannot add conditions. An application for a permit may only be granted if the authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted. Applicants must show that the premises will be used wholly or mainly for making gaming machines available for use.

164. As unlicensed FECs are not subject to scrutiny by the commission, applicants will also be asked to demonstrate:

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- That the applicant has no relevant convictions; and
- That employees are trained to have a full understanding of the maximum stakes and prizes.

165. The Commission's guidance for local authorities also states that within its "statement of licensing policy a licensing authority may include a statement of principles that it proposes to apply when exercising its function in considering applications for permits. In particular, it may want to set out the matters that it will take into account in determining the suitability of the applicant. Given that the premises will particularly appeal to children and young persons, licensing authorities may want to give weight to matters relating to child protection issues."

166. This licensing authority has duly prepared a statement of principles, which is that each applicant will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection

considerations. The efficiency of such policies and procedures will each be considered on their merits.

167. Copies of these policies and procedures must be submitted with any application for a permit. Applicants are advised that the minimum expectations of the local safeguarding children board are that policies and procedures will demonstrate:

- **How employees or contracted agencies will be made aware of the company's / organisation's policy / statement on keeping children safe from harm;**
- **That recruitment processes for staff who may have to deal direct with children under the age of 18 seek to ensure, as best the company / organisation can, that the appointed applicant has not been known to have harmed children;**
- **That there will be clear expectations on staff with regard to their personal conduct in direct relations with children under 18 and guidance on what is appropriate in dealing with specific situations which may arise;**
- **That there are systems in place and that staff are aware of them for dealing with possible abuse or violence to children from other users of the licensed facility;**
- **That there are clear and accessible complaints systems for children to report if they have been harmed and that there are clear whistle-blowing procedures for staff who may have concerns about the welfare of children on the premises; and**
- **That all duty managers or staff in charge of the premises are aware of how to refer any concerns about the welfare of children to the local police, education authority or social services as necessary.**

168. It is expected that policies and procedures will be consistent with the position set out in the London Safeguarding Children's Board 'Safeguarding Children Policy for Licensed Premises' which can be viewed using the link provided http://www.londonscb.gov.uk/procedures/supplementary_procedures . All unlicensed family centre operators are asked to agree to display a copy of the procedure and accompanying poster available upon the premises. Policies and procedures may also include appropriate measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

(Alcohol) Licensed premises gaming machine permits – (schedule 13 para 4(1))

169. There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and / or D. In such cases the premises licence holder under the Licensing Act 2003 must give notice to the licensing authority of their intention to make the gaming machines available for use and pay the relevant fee.

170. This authority understands that it has no discretion to consider the notification or reject it. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- Gaming has taken place on the premises that breaches a condition of section 282 of the Act (for example that gaming machines have been

made available in a way that does not comply with requirements in the commission's code of practice on the location and operation of gaming machines);

- The premises are mainly used for gaming; or
- An offence under the Gambling Act has been committed on the premises

Permit for 3 or more machines

171. If a premises wishes to have more than 2 machines, then an application must be made for a permit and the licensing authority must consider that application based upon the licensing objectives; guidance issued by the gambling commission; and other matters considered relevant to the application.

172. This licensing authority considers that "such matters" will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines.

173. Measures which will satisfy the authority may include:

- **That adult machines are located within a bar or segregated area to which under 18s are not admitted; and**
- **That procedures are in place to ensure that under 18s are not admitted (see advice in section five of this policy); or**
- **That adult machines are situated in full sight of the bar staff, or other staff who will monitor that the machines are not being used by those under 18; and**
- **That procedures are in place that will ensure that under 18s are not able to play upon the machines (see advice in section 5 of this policy).**
- **Additionally, notices and signage may also be of help in both circumstances**

174. Applicants should also see advice provided in s168 of this policy regarding the LCSB policy. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as gamcare.

175. It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an adult gaming centre premises licence.

176.. It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

177. It should also be noted that the holder of a permit must comply with any code of practice issued by the gambling commission about the location and operation of the machine.

Prize gaming permits

178. The Act states that a licensing authority should include a statement of the principles that it proposes to apply in considering applications for permits and, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit. Given that the premises will particularly appeal to children and young persons, licensing authorities may want to give weight to matters relating to child protection issues.
179. This licensing authority has prepared a statement of principles, which is that each applicant will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits. Prospective applicants are directed toward the information contained in sections 161 and 162 of this statement.
180. This licensing authority has prepared a statement of principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- **That they understand the limits to stakes and prizes that are set out in regulations;**
 - **That the gaming offered is within the law; and**
 - **Clear policies that outline the steps to be taken to protect children from harm.**
181. In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any gambling commission guidance.
182. It should be noted that there are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:
- **The limits on participation fees, as set out in regulations, must be complied with;**
 - **All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;**
 - **The prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and**
 - **Participation in the gaming must not entitle the player to take part in any other gambling.**

Club gaming and club machines permits

183. Members clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit or a clubs gaming machines permit. The club gaming permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (three machines of categories B, C or D).

184. Gambling commission guidance for local authorities states: “members clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is restricted to bridge and whist. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men’s clubs, branches of royal british legion and clubs with political affiliations.”

185. The commission’s guidance also notes that “licensing authorities may only refuse an application on grounds that:

- **The applicant does not fulfil the requirements for a members’ or commercial club or miners’ welfare institute and therefore is not entitled to receive the type of permit for which it has applied;**
- **The applicant’s premises are used wholly or mainly by children and/or young persons;**
- **An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;**
- **A permit held by the applicant has been cancelled in the previous ten years; or**
- **An objection has been lodged by the commission or the police**

186. There is also a ‘fast-track’ procedure available for premises which hold a club premises certificate under the Licensing Act 2003. As the Gambling Commission’s guidance for local authorities states: “Under the fast-track procedure there is no opportunity for objections to be made by the commission or the police, and the ground upon which an authority can refuse a permit are reduced” and “The grounds on which an application under the process may be refused are:

- That the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- That in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.”

187. There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

Temporary use notices

188. Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. The Commission’s guidance suggests that premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues.

189. Section 218 of the Act refers to ‘a set of premises’ and provides that a set of premises is the subject of a temporary use notice if ‘any part’ of the premises is the subject of a notice.

190. The meaning of 'premises' in Part 8 of the Act is discussed in Part 7 of the Commission's Guidance. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place'. In considering whether a place falls within the definition of "a set of premises", licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises. A large exhibition centre, for example, would be likely to come within the definition as it is properly one premises, and should not be granted a temporary use notice for 21 days in respect of each of its halls. But in relation to other covered areas, such as shopping centres, this authority will need to consider different units are in fact different 'sets of premises', given that they may be occupied and controlled by different people. This authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

Occasional use notices

191. The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

SECTION SEVEN – SMALL SOCIETY LOTTERIES

192. The Act sets out a definition of a lottery and provides that promoting or facilitating a lottery is illegal, unless it falls within one of two categories:
- Licensed lotteries (these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the commission and require operating licences); and
 - Exempt lotteries (including the small society lottery).
193. The local licensing authority is responsible for registering societies to run small society lotteries.
194. This authority will define ‘society’ as the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted, and will need to understand the purposes for which a society has been established in ensuring that it is a non-commercial organisation. Section 19 of the Act defines a society as such if it is established and conducted:
- For charitable purposes;
 - For the purpose of enabling participation in, or supporting sport, athletics or a cultural activity; or
 - For any other non-commercial purpose other than that of private gain.
195. Applicants for registration of a small society lottery must apply to the licensing authority in the area in which their principal office is located. Where this authority believes that the society’s principal office is situated in another area, it will inform the society as soon as possible and where possible, will inform the other licensing authority.
196. Applications must be made in the form prescribed by the Secretary of State and be accompanied by both the required regulation fee and all documents necessary to assess the application. To this effect, this authority will wish to receive a copy of each applicant societies’ terms and conditions and constitution so as to establish that the society is a non-commercial society.
197. This authority notes that the Commission advises that in a case where a society applies for more than one registration, care should be taken to ensure that the applicant societies have separate and different aims and objectives. Where a society applies for more than one registration, the aims and objectives of the applicant societies are the same and the combined proceeds are likely to exceed the threshold limits for small society lotteries, the applicant will be advised to apply to the Commission for a society operating licence, instead of obtaining society lottery registrations.
198. Lotteries will be regulated through a licensing and registration scheme; conditions imposed on licences by the gambling commission; codes of practice and guidance issued by the Gambling Commission. In exercising its functions with regard to small society and exempt lotteries, the licensing authority will have due regard to the Gambling Commission’s guidance.

199. The licensing authority will keep a public register of all applications and will provide information to the gambling commission on all lotteries registered by the licensing authority. As soon as the entry on the register is completed, the licensing authority will notify the applicant of his registration. In addition, the licensing authority will make available for inspection by the public the financial statements or returns submitted by societies in the proceeding 18 months and will monitor the cumulative totals for each society to ensure the annual monetary limit is not breached. If there is any doubt, the licensing authority will notify the gambling commission in writing, copying this to the society concerned. The licensing authority will accept return information either manually but preferably electronically by emailing licensing@southwark.gov.uk
200. This authority may refuse applications for registration if either
- An operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant has been refused in the past five years;
 - The society in question cannot be deemed non-commercial;
 - A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
 - Information provided in or with the application for registration is found to be false or misleading.
201. Where this authority intends to refuse registration of a society, it will give the society an opportunity to make representations and will inform the society of the reasons why it is minded to refuse registration, and supply evidence on which it has reached that preliminary conclusion.
202. This authority may determine to revoke the registration of a society if it thinks that it would have had to, or would be entitled to, refuse an application for registration if it were being made at that time.
203. However, no revocation will take place unless the society has been given the opportunity to make representations. The licensing authority will inform the society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.
204. Where a society employs an external lottery manager, it will need to satisfy itself that the manager hold an operator's licence issued by the Gambling Commission, and the licensing authority will expect this to be verified by the society.

SECTION EIGHT – REGULATION

205. Under the Legislative and Regulatory Reform Act 2006, any person exercising a specified regulatory function has a legal duty to have regard to the statutory principles of good regulation in the exercise of the function. These provide that regulatory activity should be carried out in a way which is:
- **Proportionate:** Remedies should be appropriate to the risk posed, and costs identified and minimised;
 - **Accountable:** Decisions should be justified and subject to public scrutiny;
 - **Consistent:** Rules and standards must be joined up and implemented fairly;
 - **Transparent:** Regulators should be open, and keep regulations simple and user friendly; and
 - **Targeted:** Regulation should be targeted only at cases in which action is needed and focused on the problem, and minimise side effects
206. This authority will have regard to these principles in relation to its activities under the Gambling Act 2005 and also to the requirements of the Regulators' Compliance Code. The purpose of the Code is to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on business.
207. In order to ensure that this authorities enforcement activities are targeted and make the best use of resources, this licensing authority has adopted and implemented a risk-based inspection programme, based on:
- The licensing objectives;
 - Relevant codes of practice;
 - Guidance issued by the gambling commission, in particular Part 36; and
 - The principles set out in this statement of licensing policy.
208. Our risk methodology is available upon request.
209. The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.
210. This authority will work together with the Gambling Commission to identify and investigate organised or persistent illegal activity and will exchange information on non-compliance with licences and permits to ensure that any action taken is co-ordinated.
211. It remains the over-riding intention, however, of this authority to work together with other enforcement agents, in support of responsible licence holders and operators to help them run a successful business that play a positive role within the local community. Where operators are acting responsibly we will look to

provide support, advice and education and we will look to give early warning of any concerns identified at any premises. However, the authorities will use the range of enforcement powers made available under the Act where individuals act with disregard to their responsibilities.

SECTION NINE – CONTACT DETAILS

Southwark Licensing Service

You can contact the Licensing Service in a number of ways

By post or in person by appointment during office hours

Southwark Licensing Team (personal callers – by appointment only)

C/O Health Safety Licensing & Environmental Protection Unit
 Environmental Health & Trading Standards Business Unit
 Third Floor, Hub C
 160 Tooley Street
 London, SE1 2QH

Postal Address

Southwark Council
 PO Box 64259
 SE1P 5LX

By telephone: (Via the Customer Contact Centre 24/7) 020 7525 5000

By e-mail: licensing@southwark.gov.uk

By visiting our web site at www.southwark.gov.uk/businesscentre/licensing

Other responsible authorities**The Gambling Commission**

Victoria Square House
 Victoria Square
 Birmingham, B2 4BP
 Email: info@gamblingcommission.gov.uk
 Tel: 0121 230 6666

Commissioner of Police for the Metropolis

Southwark Police Licensing Unit
 Southwark Police Station
 323 Borough High Street
 London, SE1 2RL
 Tel: 020 7232 6210

The London Fire and Emergency Planning Authority

Fire Safety Regulation
 South East Area 3
 169 Union Street
 London, SE1 0LL
 Tel: 020 8555 1200

The following council services are now all based at the Tooley Street address shown above for the licensing service

The Council's Building & Development Control Services (including Planning)

The Occupational Health and Safety Team

The Trading Standards Team

The Environmental Protection Team (dealing with nuisance issues)

C/O Southwark Community Safety Enforcement Business Unit

The Local Safeguarding Children Board

Southwark Safeguarding Children Board

Tel: 0207 525 3733

Fax: 0207 525 3236

The Local Safeguarding Vulnerable Adults Board

Safeguarding Adults Manager

Southwark Safeguarding Adults Partnership

Tel: 0207 525 3733

Fax: 0207 525 3236

Please note that in the case of applications made in respect of vessels a different set of responsible authorities apply. Please contact the Licensing Service for information.

OTHER AGENCIES

Southwark Disablement Association

Southwark Disablement Association

10 Bradenham Close

London

SE17 2QB

Tel: 020 7701 1391

Appendix A – Consultation

The Gambling Act requires that the following parties are consulted by Licensing Authorities:

- The chief officer of police
- One or more persons who appear to the authority represent the interests of persons carrying on gambling businesses in the authority's area
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005

In preparing this Statement of Gambling Licensing Policy this authority

- Placed public notices in the local media and on the council's web site advertising the opportunity to comment on the draft policy;
- Wrote directly to all known potential licence applicants;
- Wrote directly to all known tenants and residents organisations;
- Wrote directly to all known gambling business representatives;
- Wrote directly to all known community representative and other interest groups;
- Wrote directly to all ward councillors; and
- Provided information to each community council.

Detail of the written submissions received and analysis of those submissions can be obtained from the licensing service.

APPENDIX B

Southwark Statement of Gambling Licensing Policy 2013-2016 – Consultation responses		
Respondent	Comment	Response
Commissioner of Police for the Metropolis	Police welcome the guidance given in the policy under Section 5 (Premises Licence) especially the consideration given to the location of a gambling premises in areas where it could be considered has a particular problem with crime, and or where it could be considered that there is an over concentration of similar existing premises.	Noted
Southwark Safeguarding Children Board	<p>(Comment supplied following a meeting with Ann Flynn, Development Manager Safeguarding Children Board) It was a helpful discussion and I understand the limitations of your (licensing service) role, especially in respect of gambling licences. However, I note optimistically there may be changes nationally that will give stronger lever to your department in monitoring the licence process in due course (e.g. the research into ‘healthier high streets’ and the LB Newham challenge). I also explained that due to national learning about children who may be involved in child sexual exploitation and the potential for this to involve young people who are particularly vulnerable I wanted to reassure that Southwark was updating its safeguarding approach in respect of licences.</p> <p>In discussion we established some of the issues affecting us in this work. Our focus was on protecting children and vulnerable people which is the area where you have more influence.</p> <p>In brief we agreed that:</p> <ul style="list-style-type: none"> • When the SSCB checks the applications, if the safeguarding boxes on the form 	<p>Addition to process and practice agreed</p> <p>Reference to LCSB procedure / poster included into policy at 168 and 174.</p> <p>Procedure and policy will be included within packs to all gambling operators where children and young people may be admitted to the</p>

Southwark Statement of Gambling Licensing Policy 2013-2016 – Consultation responses		
Respondent	Comment	Response
	<p>are not completed we will return these as we will not be able to progress. It may be as you explained there is a national policy, however, this part should set out what that provider is going to do as per s168 and s169 of the draft Southwark Statement of Gambling Licensing Policy 2013-16;</p> <ul style="list-style-type: none"> The LCSB procedure (http://www.londonscb.gov.uk/procedures/supplementaryprocedures is sent to each applicant for a alcohol licence (and an amended version) provided to gambling providers to display (also) given the points made at s168 / 169 e.g. policies and procedures as to how staff would deal with unsupervised very young children being on the premises. It may be that this is included in the pack that is sent to applicants from your team? <p>I have discussed this with the administrator supplying the information to your team and we will advise you of any applications that may need further attention as agreed. We will update the poster (appended to the LSCB policy) with correct numbers and an image.</p>	premises.
Southwark Safeguarding Adults Board	Confirmed that the Board continues to support the policy.	Noted
Southwark Trading Standards Service	Seeking inclusion of a reference to the Southwark SPA (proof of age card)	Text supplied incorporated into policy
Southwark Occupational Health & Safety Team	Seeking inclusion of reference to the team's conflict resolution work supporting business dealing with violence at work	Text supplied incorporated into policy

Southwark Statement of Gambling Licensing Policy 2013-2016 – Consultation responses		
Respondent	Comment	Response
Herne Hill Society	The Herne Hill Society is grateful for the opportunity to comment on the draft policy statement. Having studied the document in detail, we would be content for it to go forward as drafted, setting out Southwark’s policy on gambling licensing for the next three years. To the best of the Society’s knowledge, we have never felt it necessary to offer a view on any gambling licence application relating to premises in our area of interest (mainly the SE24 postal district). However, should the occasion arise in the future where we wish to make representations, we hope that, as set out in the policy, Southwark will regard the Herne Hill Society as an interested party under the policy’s terms and accept for consideration any comments that we wish to make.	Confirmation can be given that the Council would accept the Herne Hill as an interested party under the terms set out in the policy

APPENDIX C**The Licensing of Betting Shops – Legal Position****Proliferation of betting shops – Situation in Southwark**

1. The main report acknowledges growing concerns over the perceived clustering or over-proliferation of betting shops in the high street, particularly in more deprived areas of the borough.
2. Examination of licensing records since the responsibility for issuing gambling premises licences was passed to local licensing authorities in 2007 does not show any growth in numbers within Southwark. In fact, the number of licensed betting shops in Southwark in May 2013 (74) represents a reduction of 3 premises from the number licensed in the first year 2007 (77).
3. During the 6 intervening years, there has been some ‘churn’ experienced. In total 21 shops have closed while 18 shops have opened. A further 8 shops have changed ownership. During the same period 3 betting operators have ‘lost’ a presence in Southwark while 2 new operators have moved into the market.

Betting operators entitlement to gaming machines

4. Beside the ability to provide ‘across the counter’ betting, betting premises operators also have an entitlement to 4 gaming machines of categories B2 to D (except B3A machines) per premises.
5. Of these, B2 machines, also known as ‘FOBTs’ (fixed odds betting terminals) have a maximum stake of £100 (in multiples of £10) and a maximum prize of £500. The ability to play casino style games in a non-casino type environment is attractive to customers. The contribution made toward overall betting office profitability by these machines provides an incentive to maximise this potential profit stream.

The Gambling Act 2005

6. Under the Gambling Act 2005, any person wishing to run a betting shop will have to obtain an operating licence and one or more personal management licences from the gambling commission, plus a premises licence from the local licensing authority for the area in which the premises is wholly or partly situated.
7. Each licensing authority has a duty to consider and determine every relevant application for a premises licence made to it.

Principles to be applied by the licensing authority when determining premises licence applications under the Act

8. Section 153 of the Act states that ‘in exercising their functions under this part (of the Act) a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it –
 - (a) In accordance with any relevant code of practice issued by the Gambling Commission (www.gamblingcommission.gov.uk);

- (b) In accordance with any relevant guidance issued by the Gambling Commission (www.gamblingcommission.gov.uk);
 - (c) Reasonably consistent with the licensing objectives (subject to (a) and (b) above; and
 - (d) In accordance with Southwark's statement of gambling licensing policy (subject to (a) to (c) above).'
9. The licensing objectives referenced in 4(c) above are:
- (a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - (b) Ensuring that gambling is conducted in a fair and open way; and
 - (c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.
10. The rules of natural justice require that each application for a licence must be considered upon its own merits with all relevant matters taken into account.
11. A licensing authority may not have regard to:
- The expected demand for the facilities; or
 - Whether or not the applicant's proposal is likely to receive planning or buildings consent.
12. Neither the governing legislation or the guidance provided to licensing authorities by the Gambling Commission make any provision for an authority to consider the cumulative impact of licensed premises (as per the Licensing Act 2003).
13. Together this provides for very directed and restricted consideration of applications for premises licences, focussed on the relative merits of the specific application under consideration. Greater reliance is placed, therefore on the planning process to take in broader social and economic considerations. However, planning considerations are also restricted.

Planning Powers

14. Boroughs have planning powers to control the uses of the high street shops through the Use Class Order. However, permitted development rights limit boroughs' powers in key respects.
15. Under the Use Classes Order¹, betting shops fall within the A2 use class. The A2 use class also includes banks, building societies, bureau de change, professional services, estate agents and employment agencies. Changes between uses in the A2 use class do not require planning permission.
16. In addition, the General Permitted Development Order allows a change of use from restaurants and cafes (Use Class A3), drinking establishments (Use Class A4) and hot food takeaways (Use Class A5) to a use in the A2 use class without requiring planning permission.
-

17. Through this combination, new betting shops may readily be established in a broad range of high street shops without any additional planning consent being necessary.
18. The Mary Portas Review (2011) into the future of the UK's high streets included a recommendation to place betting shops into a separate use class category (i.e. 'sui generis'). The government's response to the Mary Portas Review 'High Streets in the Heart of our Communities' highlighted Article 4 Directions as the appropriate tool for certain uses such as betting shops, by removing permitted development rights, and requiring a planning application to be made.
19. In reality, however, Article 4 Directions are viewed as inappropriate and cumbersome tools for a range of reasons. Among these are that Article 4 Direction does not affect changes within the A2 use class itself; Article 4 Direction, if applied to changes to A2 Use Class, would affect broader than just betting shops; and to avoid potential compensation claims under Article 4 Directions the council would need to provide 12 months advance notice of an Article 4 Direction taking effect.
20. This authority is aware of a number of local authorities that have made or are making approaches to central government concerning the legal position around planning and licensing controls over betting shops and of a number of planning initiatives that are taking place. Two current licensing matters of particular note are noted below.

Newham decision based on primary activity requirement

21. In February 2013, Newham Council became the first council in the country to use the 'primary activity' of a betting shop in their decision to reject a licence application. The concept of primary activity is established by the guidance for local licensing authorities provided by the Gambling Commission. This sets out that the primary activity of the premises should be that described by way of its licence.
22. Newham Council rejected an application by the owners of the Paddy Power betting chain to open new premises at 297 Green Street, Upton Park, under section 153 Gambling Act 2005. The council believed the premises would add to the 'cluster' of betting shops that already operate on the street. Members decided the application did not meet the criteria for a betting shop licence as the premises would not be primarily used for betting and that the purpose of the application was to increase the number of Fixed Odds Betting Terminals (FOBTs) in the street rather than enable traditional betting.
23. On 17 June 2013, Thames Court considered this matter upon appeal and overturned the decision by Newham Council. The Council is currently considering its position and the courses of action that are available to it.

Pan-London Working Group

24. It is also worth noting that there is a pan-London group examining different ways of addressing local concerns regarding betting shops. Southwark is an active member of this group and is working alongside a number of other London boroughs to explore the development of a Cumulative Impact Policy for betting shops; investigating the implications of planning policy controls (through

Supplementary Planning Document and Article 4 direction) and understanding the implications of decisions to refuse betting premises licences.

Item No: 8.2	Classification: Open	Date: 10 July 2013	Meeting Name: Council Assembly
Report title:		Treasury Management Performance - 2012/13 Annual Report and Prudential Indicators for Capital Finance and Treasury Management	
Wards or groups affected:		All	
From:		Strategic Director of Finance and Corporate Services	

RECOMMENDATION

1. That council assembly notes the 2012/13 outturn report on treasury management and prudential indicators.

BACKGROUND INFORMATION

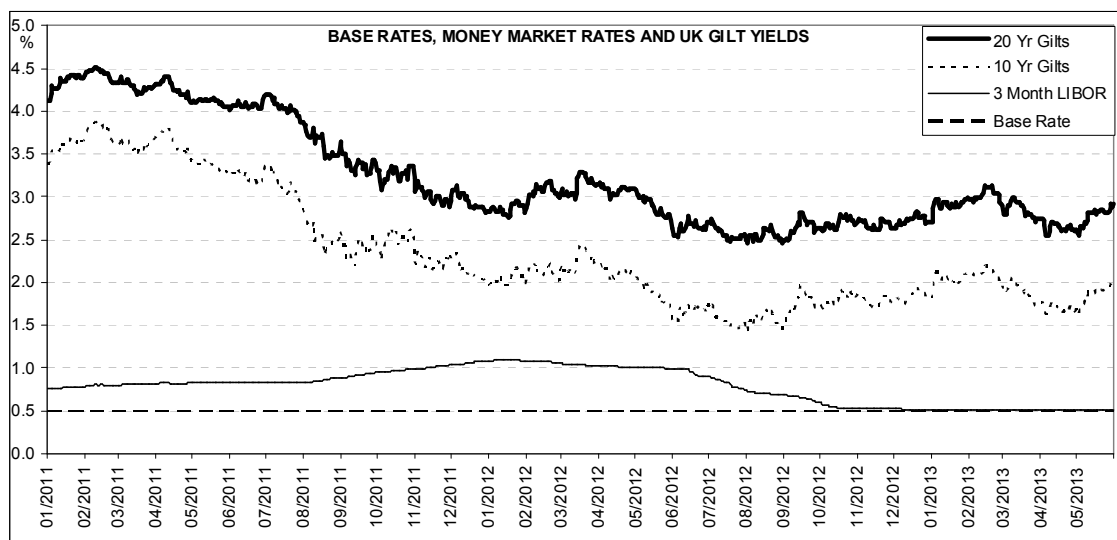
2. This item is one of an annual cycle of reports on the council's debt and investments. Other reports to council assembly on treasury include a strategy report at the start of each financial year and a half year update. The cabinet also receive quarterly updates and the audit and governance committee reviews treasury strategy annually.
3. Treasury activity is supported by a series of prudential indicators (estimates and limits on capital finance, debt and investments), which are agreed by council assembly each year and under financial delegation all executive, managerial and operational decisions are the responsibility of the strategic director of finance and corporate services. This area of finance falls under the Local Government Act 2003 and is supplemented by investment guidance issued by the government and codes of practice issued by the Chartered Institute of Public Finance and Accountancy (CIPFA).

KEY ISSUES FOR CONSIDERATION

Developments in Financial Markets

4. In 2012/13, financial markets remained sensitive to global economic developments, especially in the euro area, and the monetary policies of major central banks. Spanish and Italian government bond yields rose in the first four months of 2012/13, as declining expectations of growth raised uncertainty over the fiscal path and competitiveness of those countries. This led capital to flow into safer euro states (such as Germany, France and the Netherlands) as well as better rated countries (such as the US and UK) and lowered their sovereigns' bond yields. However news, in August 2012, that the European Central Bank (ECB) was prepared to purchase peripheral area government bonds reversed the climb in Spanish and Italian yields and lowered the attraction of safe haven states such as the UK where yields rose somewhat. The markets were also supported by a major plan by the Bank of Japan to purchase financial assets.
5. Central bank policies were also supportive to banks and led to lower bank funding costs. News of the one notch downgrade to UK's sovereign rating by Moody's and Fitch had no material impact. The Moody's change from Aaa to

Aa1 came in February 2013 and Fitch followed in April 2013 with a reduction from AAA to AA+. However since then, improvements in the outlook for the United States raised concerns that the Federal Reserve would taper off monetary easing sooner rather than later. This raised sovereign bond yields in the US and elsewhere, including in the UK. UK government bond yields (gilt yields) influence Public Works Loans Board (PWLB) lending rates to councils and bank funding costs affect returns on short term investments. The chart below shows recent gilt yields and short term bank funding cost (three month LIBOR in the chart).



Investment Management Activity and Position

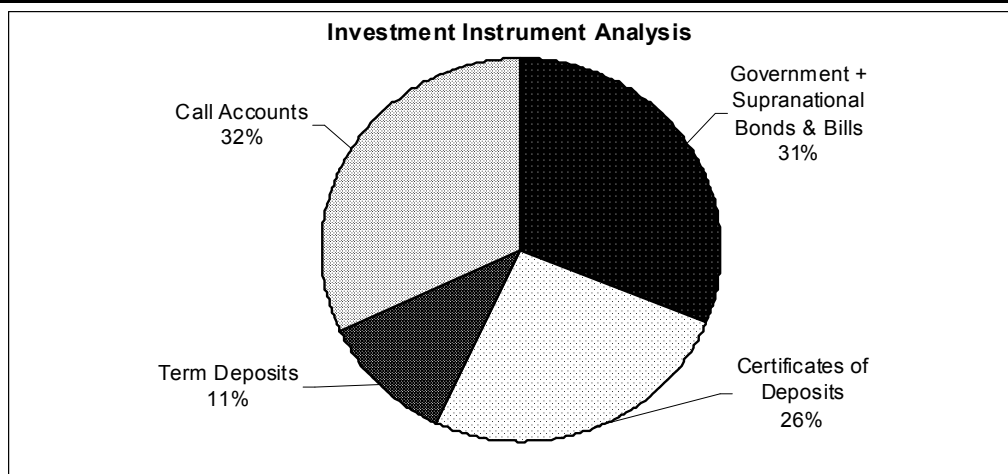
6. Amid continued volatility in financial markets, the council maintained a cautious approach to its investments, prioritising security and liquidity as required under government guidance on local authority investments. Investment exposure to banks was diversified across large institutions in stronger sovereigns where the likelihood of support, in the event it were needed, was high and any exposure to investments above one year was in UK gilts or supranational bonds.
7. Over the course of 2012/13 the sums held in investments averaged £293m (£299m in 2011/12). The sums available for investment were affected by cash used in debt refinancing and the acquisition in December 2012 of the freehold interest in the council's headquarters at 160 Tooley Street. The investments are managed by an in-house operation and fund managers. Following a review of fund managers in May 2012, contracts with Aberdeen Asset Managers and AllianceBernstein were extended for a further three years. A new custodian, the Bank of New York Mellon, London Branch, (BNYM) (a US incorporated global financial institution and one of the largest custodians in the world) was appointed in July 2012 to replace HSBC who were previously providing the service. At close of 2012/13 investments stood at £176m (£187m at 31 March 2012). The distribution of these across counterparties, rating and maturity is set out in the tables and chart below. The average return for the year was 0.89% (1.03% in 2011/12), reflecting low money market and base rates.

EXPOSURE - MARCH 2013 COUNTERPARTY AND RATINGS									
COUNTERPARTY	FUND				Fitch Ratings				
	Aberdeen	Alliance Bernstein	In-House	£m	Long	Short	Sup- port	Sovereign	Sovereign Rating
CREDIT INDUST ET COMRCIAL	3.5	-	-	3.5	A+	F1+	1	FRANCE	AAA
SOCIETE GENERALE	-	1.0	-	1.0	A+	F1+	1	FRANCE	AAA
BANQUE NATIONAL DE PARIS	3.5	1.0	-	4.5	A+	F1+	1	FRANCE	AAA
DEUTSCHE BANK	3.5	1.0	-	4.5	A+	F1+	1	GERMANY	AAA
LANDESBK BADEN WERT MBG	-	1.0	-	1.0	A+	F1+	1	GERMANY	AAA
DZ BANK	3.5	-	-	3.5	A+	F1+	0	GERMANY	AAA
ABN AMRO BK	3.5	1.0	-	4.5	A+	F1+	1	NETHERLANDS	AAA
ING BK	3.4	1.0	-	4.4	A+	F1+	1	NETHERLANDS	AAA
RABOBANK	-	0.5	-	0.5	AA	F1+	0	NETHERLANDS	AAA
EUROPEAN INV BANK	7.0	6.6	-	13.6	AAA	F1+	0	SUPRANATIONAL	AAA
INT BK RECONST DEVT	3.5	6.8	-	10.3	AAA	F1+	0	SUPRANATIONAL	AAA
EUROPEAN BNK RECON DEV	3.4	-	-	3.4	AAA	F1+	1	SUPRANATIONAL	AAA
SVENSKA	-	0.5	-	0.5	AA-	F1+	1	SWEDEN	AAA
SKANDINAVISKA	-	1.0	-	1.0	A+	F1	1	SWEDEN	AAA
UBS	3.5	-	-	3.5	A	F1	1	SWITZERLAND	AAA
BARCLAYS BANK	5.0	-	-	5.0	A	F1	1	UK	AAA
LLOYDS TSB/BK SCOTLAND	3.5	-	15.0	18.5	A	F1	1	UK	AAA
NATIONWIDE BSOC	3.3	1.0	-	4.3	A+	F1	1	UK	AAA
RBS/NATWEST	-	-	61.7	61.7	A	F1	0	UK	AAA
UK TREASURY	-	26.8	-	26.8	AAA	F1+	1	UK	AAA
BNY MELLON	0.1	1.1	-	1.2	AA-	F1+		US	AAA
Total Gross £m (#)	50.2	50.3	76.7	177.2					

(#) Includes sums held on behalf of trust fund accounts. The council's own investments, excluding trust funds, are £176m.

NB. Fitch rating in this table is as at March 2013. As detailed in paragraph 5, the rating for UK Treasury was revised in April 2013.

Investment Rating and Maturity				
Rating	AAA	AA+ to AA-	A+ to A	Total
Period Remaining				
2-5 years	7%			7%
1-2 years	9%			9%
Less than 1 year	14%	1%	69%	84%
	30%	1%	69%	100%

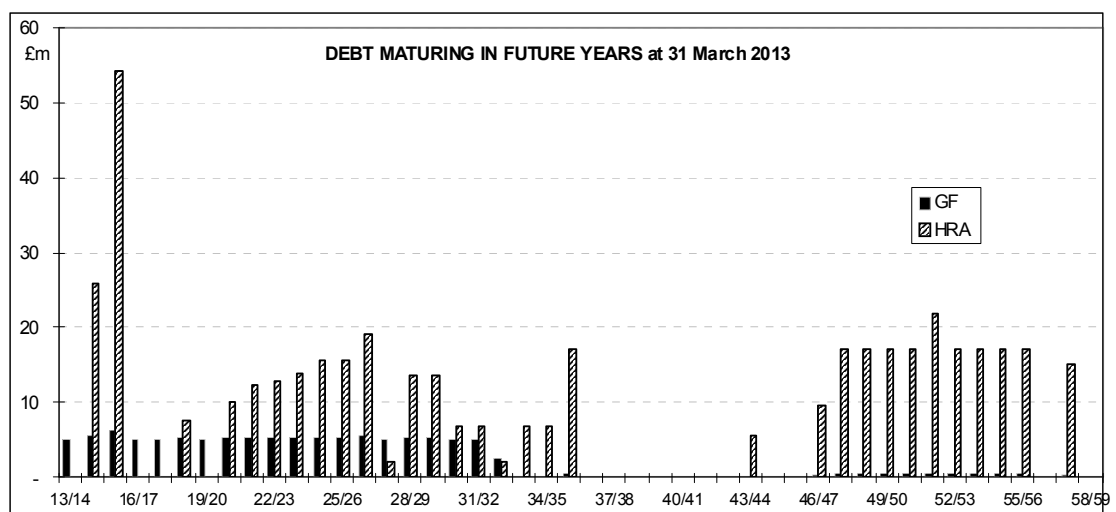


Debt Management Activity and Position

8. The opening debt balance as at 1 April 2012 was £462m. During the financial year 2012/13 £100m was borrowed at 3.20%, repayable in equal instalments over 20 years. The first instalment of £2.5m fell due in 2012/13 and has been paid, which brings the total debt outstanding at 31 March 2013 to £560m.
9. From April 2012 the debt has been disaggregated between the Housing Revenue Account (HRA) and the General Fund (GF) and each fund can now

manage its debt in a way that best suits its need. At 1 April 2012, the HRA debt stood at £451m and the GF debt at £12m. The GF element rose during 2012/13 when £100m in new loans were taken to replace the repayment made in March 2012. After repaying £2.5m of the new loan, the GF debt stands at £109m at 31 March 2013. The HRA debt has remained unchanged throughout 2012/13 and unlike the GF, there is no statutory requirement to set-aside sums from revenue to pay it off.

10. All the debt is from the PWLB at fixed rates and the maturity profile of the £560m outstanding at 31 March 2013 is set out in the chart below. The average rate of interest in 2012/13 on HRA debt is 6.55% and for GF is 3.57%. The GF rate reflects the low coupon loans taken in April 2012. The HRA will see its average rate fall once high rate maturing loans are replaced with lower rate ones – it has some £80m maturing between 2014/15 and 2015/16.



Prudential Indicators Outturn

11. Prudential indicators consist of a series of estimates and limits to give a general picture of the affordability, prudence and sustainability of capital finance and treasury management. The indicators are drawn from the Prudential Code for Capital Finance in Local Authorities and the Treasury Management Code of Practice and Guidance.
12. The outturn for each indicator based on 2012/13 draft accounts is set out in Appendix A and includes the authorised debt limit, which is a self imposed cap on borrowing and other long term liabilities (like leases and PFI schemes) outstanding on any one day. The limit for 2012/13 was £885m and included operational flexibility for temporary borrowing and prudent refinancing within a risk controlled framework. The maximum debt and long term liabilities outstanding at any one time during 2012/13 was £562m and £107m respectively and together remained below the authorised limit.

Capital Allowances

13. Following an announcement in January 2013, the Department of Communities and Local Government went ahead with proposal to abolish capital allowances from April 2013. Capital allowances were a mechanism that gave councils the power to retain non-right-to-buy housing receipts (such as receipts from sale of vacant land and garages) for use in affordable housing and regeneration. Each year council assembly made a determination in relation to such allowances to ensure that non-right-to-buy housing receipts were retained, rather than passed

to the government in pooling. However, following concerns raised by local authorities that abolition of capital allowances would mean loss of resources for affordable housing and regeneration, the Department introduced a new regulation to restore the power to use non-right-to-buy housing receipts for affordable housing and regeneration. The new power means that these receipts can be retained without council assembly having to make a determination on capital allowances each year.

SUPPLEMENTAL ADVICE FROM OTHER OFFICERS

Director of Legal Services

14. The constitution determines that agreeing the treasury management strategy is a function of the council assembly and that review and scrutiny of strategies and policies is the responsibility of the audit and governance committee.
15. Financial standing orders require the strategic director of finance and corporate services to set out the treasury management strategy for consideration and decision by council assembly, and report on activity on a quarterly basis to cabinet and at mid and year-end to council assembly. Furthermore all executive and operational decisions are delegated to the strategic director of finance and corporate services.
16. The Local Government Act 2003 and supporting regulations require local authorities to determine annual borrowing limits and have regard to the Prudential Code for Capital Finance, and the Treasury Management in the Public Services Code of Practice and Guidance, published by the Chartered Institute of Public Finance and Accountancy, when considering borrowing and investment strategies, determining or changing borrowing limits or prudential indicators.
17. Section 15(1) of the 2003 Act requires a local authority “to have regard (a) to such guidance as the Secretary of State may issue”. This guidance is found in the Department of Communities and Local Government Guidance on Local Authority Investments updated March 2010 and there is statutory guidance on the Minimum Revenue Provision (MRP) produced under amendments made to section 21(1A) of the 2003 Act by section 238(2) of the Local Government and the Public Involvement in Health Act 2007.
18. Section 12 of the 2003 Act grants local authorities the powers to invest for any purpose relevant to its functions or for the purposes of the prudent management of its financial affairs.

BACKGROUND DOCUMENTS

Background Papers	Held at	Contact
None		

APPENDICES

No.	Title
Appendix A	Prudential Indicators – 2012/13 Outturn

AUDIT TRAIL

Lead Officer	Duncan Whitfield, Strategic Director of Finance and Corporate Services	
Report Author	Jennifer Seeley, Deputy Finance Director	
Version	Final	
Version Date	26 June 2013	
Key Decision	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	N/A	N/A
Cabinet Member	Yes	Yes
Final Report Sent to Constitutional Team		27 June 2013

PRUDENTIAL INDICATORS - OUTTURN 2012/13**BACKGROUND**

1. Capital finance, borrowing and investment arrangements are brought together in a series of prudential indicators (estimates and limits) to give a general picture of the affordability, prudence and sustainability of financing activities. The indicators are drawn from the Prudential Code on Capital Finance for Local Authorities and the Treasury Management in the Public Services Code of Practice plus Guidance, published by CIPFA and updated in November 2011. The Local Government Act 2003 requires that councils have regard to these codes.
2. This appendix sets out the 2012/13 outturn indicators drawn from the council's draft accounts for that year.

PRUDENTIAL INDICATORS – OUTTURN 2012/13**CRITERIA ONE: AFFORDABILITY AND PRUDENTIAL INDICATORS ON AFFORDABILITY****INDICATOR ONE: ESTIMATES OF THE RATIO OF FINANCING COSTS TO NET REVENUE STREAM**

3. The financing ratio is the cost of financing capital expenditure (including PFI and leases) net of cash income as a proportion of the net revenue stream. The drop in the Housing Revenue Account (HRA) ratio in 2012/13 follows a fall in debt costs under HRA self-financing, in which HRA Subsidy stopped and £199m in HRA debt was cancelled in March 2012, leaving the remaining HRA debt to be serviced entirely out of HRA income. The General Fund (GF) ratio for 2012/13 includes the full year effects of the two PFI schemes (St Thomas the Apostle College and the integrated waste management facility at the Old Kent Road site) which became operational in 2011/12 and part year effects of the cash drawn down to finance the acquisition of the council headquarters at 160 Tooley Street SE1. The outturn ratios are set out below and reflect latest guidance on calculation issued by CIPFA. The indicators do not affect existing budgets.

Financing Ratios	2011/12 Actual	2012/13 Actual
Housing Revenue Account (HRA)	25%	15.0%
General Fund (GF)	4%	6.0%

INDICATOR TWO: ESTIMATES OF THE INCREMENTAL IMPACT OF CAPITAL INVESTMENT ON THE COUNCIL TAX AND HOUSING RENTS

4. No incremental increase in council tax or rents was sought as a result of capital spend funded through borrowing.

Notional Rent or Council Tax Increases	2011/12	2012/13
Weekly housing rent increase as a result of capital programme	Nil	Nil
Council tax band D increase as a result of capital programme	Nil	Nil

CRITERIA TWO: PRUDENCE AND PRUDENTIAL INDICATORS FOR PRUDENCE

INDICATOR THREE: DEBT AND CAPITAL FINANCING REQUIREMENT

5. Funding for capital plus long term liabilities like PFI and leases which remain to be discharged is represented in the capital financing requirement (CFR). Normally debt should not exceed the CFR over the medium term, but may do so over the short-term in the interest of prudent financing of capital expenditure and management of debt. As at 31 March 2013 council debt is below the CFR. The debt outstanding at 31 March 2013 was £560m, while the CFR stood at £848m. The difference between the two represents long term liabilities and cash used in place of debt.

CRITERIA THREE: PRUDENTIAL INDICATORS FOR CAPITAL EXPENDITURE AND TREASURY

INDICATOR FOUR: ESTIMATES OF CAPITAL EXPENDITURE

6. The actual capital expenditure, including spend on long term liabilities drawn from the council's accounts is set out below. The GF spend in 2012/13 includes the acquisition of the freehold interest in the council headquarters at 160 Tooley Street. Further analysis of spend is set out in capital monitoring reports to cabinet.

Capital Expenditure	2011/12 Actual £m	2012/13 Actual £m
Housing Revenue Account (HRA)	53	86
General Fund (GF)	157	262
Total	210	348

INDICATOR FIVE: ACTUAL AND ESTIMATES OF CAPITAL FINANCING REQUIREMENTS

7. The outturn capital financing requirement is set out in the table below. The 2012/13 General Fund CFR includes the acquisition of the freehold interest in 160 Tooley Street as cash was used in place of borrowing – using cash was more efficient than borrowing.

CFR at year end	2011/12 Actual £m	2012/13 Actual £m
Housing Revenue Account (HRA)	451	451
General Fund (GF)	234	397
Total	685	848

INDICATOR SIX: HRA LIMIT ON INDEBTEDNESS

8. The HRA limit on indebtedness is the limit imposed by the government on HRA debt under self-financing. The indebtedness limit for 2012/13 set out in the self-financing determination issued in February 2012 is £577m. The actual HRA debt stood at £451m throughout 2012/13.

INDICATOR SEVEN: ACTUAL DEBT- THE AUTHORISED LIMIT AND OPERATIONAL BOUNDARY

9. This indicator caps the maximum sum that may be outstanding on debt and long term liabilities on any one day. The lower limit is the operational boundary and takes account of ordinary activity, while the authorised limit is the higher limit, which councils have to determine under the Local Government Act 2003, and accommodates additional prudent borrowing that may be needed for very short periods within a risk controlled framework.

Operational Boundary and Authorised Limits for External debt	2011/12 Actual Maximum £m	2012/13 Limit £m	2012/13 Actual Maximum £m
Operational Boundary for Debt			
Borrowing	761	630	562
Other long term liabilities	107	110	107
Total Operational (*)	868	740	669
Authorised Limit for Debt -			
Borrowing	761	770	562
Other long term liabilities	107	115	107
Total Authorised (*)	868	885	669

Note * - The strategic director of finance and corporate resources has authority to allow activity to go outside the operational boundary and vary the mix between long term liabilities and borrowing should it be prudent and justified. Activity must nevertheless remain within the total authorised limit.

INDICATOR EIGHT: GROSS AND NET DEBT

10. This indicator is an upper limit on net debt (i.e. gross debt less investments) as a percentage of gross debt. The net debt is currently lower than the gross as the council holds investment to meet spend as needed.

Net Debt	2011/12 Actual	2012/13 Limit	2012/13 Actual
Upper Limit on Net Debt as a % of Gross Debt	66%	100%	68%

INDICATOR NINE: ADOPTION OF THE CIPFA CODE OF PRACTICE ON TREASURY MANAGEMENT IN THE PUBLIC SERVICES

11. This indicator concerns the adoption of the Treasury Management in the Public Services Code of Practice issued by CIPFA. The council adopted the 2009 code at its meeting in February 2010. The 2011 code is an update and basic principles remain unchanged.

INDICATOR TEN: INTEREST RATE EXPOSURES – FIXED

INDICATOR ELEVEN: INTEREST RATE EXPOSURES - VARIABLE

INDICATOR TWELVE: MATURITIES

12. Council debt currently consists entirely of fixed rate loans and the limits accommodate flexibility to take on new fixed or variable rate loans where prudent within a risk controlled framework. The actuals show the maximum exposure to fixed and variable debt on any one day in 2012/13. And the maturity profile shows the position at the start of the year.

LIMITS ON FIXED AND VARIABLE RATES	2011/12 Maximum Actual £m	2012/13 Limit £m	2012/13 Maximum Actual £m
Upper limit for fixed interest rate exposure	761	655	562
Upper limit for variable rate exposure	0	165	0

Maturity structure of fixed rate borrowing at start of year	2011/12 Actual	2012/13 Lower Limit	2012/13 Upper Limit	2012/13 Actual
Under 12 months	0%	0%	30%	0%
12 months and within 24 months	0%	0%	30%	0%
24 months and within 5 years	29%	0%	60%	18%
5 years and within 10 years	3%	0%	80%	7%
10 years and within 20 years	24%	0%	100%	27%
20 years and within 30 years	8%	0%	100%	7%
30 years and within 40 years	16%	0%	100%	23%
40 years and within 50 years	20%	0%	100%	18%

INDICATOR THIRTEEN: TOTAL PRINCIPAL SUMS INVESTED FOR PERIODS LONGER THAN 364 DAYS

13. The actual exposure to longer investment during 2012/13 is set out below and reflects the cautious approach taken when lending in the face of continued market volatility.

Upper limit on investments greater than 364 days	2011/12 Actual	2012/13 Limit	2012/13 Actual
Upper limit / Actual	Actual max exposure 14% of investments greater than 364 days Overall maximum average maturity 7 months; Longest investment 5 years	Up to 50% of investments greater than 364 days Overall average maturity 3 years, but any one investment may be longer as referred to in the Annual Investment Strategy	Actual max exposure 15% of investments greater than 364 days Overall average maturity 7 months; Longest Investment 5 years

Item No. 8.3	Classification: Open	Date: 10 July 2013	Meeting Name: Council Assembly
Report title:		Constitutional Review 2013/14	
Ward(s) or groups affected:		All	
From:		Proper Constitutional Officer	

RECOMMENDATIONS

That the following constitutional changes be adopted by council assembly, as recommended by the constitutional steering panel:

PART 2 - ARTICLES

Overview and scrutiny function

1. That council assembly notes that consequential changes are required to the constitution following the introduction of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.
2. That the revised Articles attached at Appendix A and the revised Overview and Scrutiny procedure rules attached at Appendix B, be agreed (see paragraphs 12 - 27).

PART 3H - COMMUNITY COUNCILS

Section 106 release – consultation with community councils

3. That the proposal to streamline the consultation process on the release of Section 106 monies over £100,000 be agreed (see paragraphs 28 - 36).

PART 4 - RULES

Access to information procedures rules and cabinet procedures rules

4. That council assembly notes that consequential changes are required to the constitution following the introduction of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
5. That the revised access to information procedure rules attached at Appendix C and the revised cabinet procedure rules attached at Appendix D, be agreed (see paragraphs 37 - 51).

PART 6 – PROTOCOLS

Member and officer protocol and communications protocol

6. That the revised member and officer protocol at Appendix E be agreed (see paragraphs 52 - 62).

7. That the marked up copy of the proposed communication protocol as set out in Appendix F, be agreed.

CONSEQUENTIAL CHANGES

8. As a result of the changes suggested within this report officers will be required to update the constitution. Therefore council assembly is requested to authorise officers to undertake any necessary consequential changes.

BACKGROUND INFORMATION

9. This report covers constitutional areas and a number of other statutory changes that had come to officers' attention that form a periodic review of the constitution.
10. The objective for making changes to the constitution is to ensure that it is easily understood and user friendly. In order to achieve this, council assembly should take into account that the constitution should be:
 - **Accessible** to all those who need to use it to understand their rights and obligations under it.
 - **Efficient:** supporting effective decision-making so that the business of the council can be delivered in line with best practice on corporate governance.
 - **Inclusive:** so that decision-making is open and transparent and involves local communities.
11. All constitutional changes are considered by 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. All the changes were considered by the constitutional steering panel at its meeting on 17 June 2013.

KEY ISSUES FOR CONSIDERATION

PART 2: ARTICLES – OVERVIEW AND SCRUTINY FUNCTION

12. Local authorities in England operating executive arrangements, such as Southwark, are required to make provision for one or more overview and scrutiny committees ("OSCs"): [section 9F Local Government Act 2000].
13. Section 244 National Health Service Act 2006 (as initially drafted) enabled the Secretary of State to make regulations relating the scrutiny of the health service by OSCs.
14. Regulations under section 244 were made in 2002 (Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002) ("the 2002 Regulations"), as amended in 2004 (see the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Amendment Regulations 2004) ("the 2004 Regulations").
15. The Health and Social Care Act 2012 ("the 2012 Act") has conferred functions in relation to public health to principal local authorities, and has provided for the

establishment of health and wellbeing boards (“HWBs”) by each principal local authority, including Southwark. HWBs are committees of the council for the purposes of the Local Government Act 1972, and by virtue of section 196 of the 2012 Act, a local authority may arrange for the discharge of any of its functions through its HWB. However, section 196(4) of the 2012 Act prevents the discharge of a local authority’s health scrutiny functions through the HWB.

16. New regulations made under the 2012 Act, the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (“the 2013 Regulations”), revoke the 2002 and 2004 Regulations, replacing them (in Part IV) with a new set of regulations in relation to health scrutiny.
17. The bodies which can be subjected to scrutiny have changed as the institutions of the NHS have been reformed. The 2002 Regulations related to “local NHS bodies” (meaning primary care trusts, strategic health authorities and NHS trusts). The 2013 Regulations relate to “relevant NHS bodies” (meaning the NHS commissioning board, clinical commissioning groups and the NHS trusts) and “relevant health service providers” (health service providers besides NHS trusts). The 2013 Regulations use the term “responsible person” to refer to both “relevant NHS bodies” and “relevant health service providers”.

Proposed changes to the articles

18. The power to “review and scrutinise any matter relating to the planning, provision and operation” (hereafter “the scrutiny function”) of the health service is essentially unchanged in the 2013 Regulations, except that the 2013 Regulations confers that power on the local authority, and not on the OSC. However, the authority can discharge its scrutiny function through an OSC.
19. Therefore the new second paragraph delegates the function to the overview and scrutiny committee. The regulation specifically state that where a NHS body or health service provider consults the council and another authority or authorities about a proposal for a substantial development of or variation to the health service affecting more than one council’s area a joint overview and scrutiny committee must consider the proposals. The new third paragraph delegates the operation of this to the overview and scrutiny committee.
20. The changes to detail the new function are set out under paragraph 5.3.
21. The change in Article 5.1 is required due to the amendment by the Localism Act 2011 of section 21 Local Government Act 2000. The requirement on English local authorities operating an executive system to make provision for overview and scrutiny now derives from section 9F of the Act (as amended by Localism Act 2011).
22. The changes are set out in Appendix A.

Overview and scrutiny procedure rules

23. The new arrangements for joint committees are detailed in a new paragraph 7. All subsequent paragraphs will need to be renumbered.
24. In paragraph 17 a new clause is added to allow OSC to call a deputy cabinet member to attend to review their performance in deputy role.

25. An amendment in paragraph 21 is to make clearer when a key decision made by an officer can be called in.
26. The changes are set out in Appendix B.
27. In respect of community impact, effective scrutiny of health issues will benefit the whole of Southwark.

PART 3H - COMMUNITY COUNCILS

Section 106 release – consultation with community councils

28. Under Part 3H of the council's constitution, community councils comment to planning committee or its sub-committees on the proposed expenditure of funds over £100,000 secured through legal agreements under section 106 (S106). It is recommended that this process is streamlined by consulting members of the relevant community council over email before reports are submitted to planning committee or its sub-committees. In the event that members of the community council feel a report should be considered at a community council such a request can be agreed by the relevant chair of the community council.
29. As this is a function reserved to community council in the constitution, chairs and vice-chairs were consulted on the proposals and their views were reported to the constitutional steering panel on 17 June 2013.
30. When approving allocations of S106 funds a report is required and the S106 protocol approved by the chief executive in 2009 requires different sign-offs depending upon the amount:
 - £1 to £34,999, report with S106 manager concurrent and delegated approval.
 - £35,000 to £99,999 report with S106 manager and finance concurrents, 2 week consultation with chair and vice chair of the community council. Delegated approval.
 - £100,000+ report with S106 manager, finance and legal concurrents, community council meeting consultation. Planning committee approval.
31. The constitution also requires consultation with the community council on S106 spend over £100,000 and these have historically been considered at planning community councils.
32. The proposal is to digitalise the process for spend over £100,000 so that community council members can comment on proposals without reports being required to go to community council meetings, reports would be emailed to the community council members for comments. This would allow members of the community council to ask that it be heard at the next meeting or that they can give their comments by e-mail.
33. As the council is seeking to spend more S106 funds across the borough particularly local projects this would enable more S106 reports to be considered without reports overloading agendas, and allowing more time at meetings to discuss other local issues. The S106 reports are already consuming a

significant part of agendas, particularly in the north of the borough.

34. The public will still be consulted as part of the planning committee consultation and be able to input at that stage. Members will retain the right to ask for any report to be heard at a community council meeting – these requests will be directed to the head of development management in a similar way to requesting planning applications are heard by a planning committee or sub-committee.
35. The cabinet member for regeneration and corporate strategy has been briefed and is supportive of the proposed digitalisation subject to agreement with chairs and vice chairs. The proposal was raised with the chairs and vice-chairs at their March meeting and they were in support of the change. Therefore changes to the constitution to clause 1 of the matters reserved to the community council are suggested along the following lines:

To comment to planning committee and its sub-committees on the proposed expenditure of funds over £100,000 secured through legal agreements under section 106 of the Town and County Planning Act 1990, or any previous legislation where the site to which the agreement relates and the site(s) where expenditure will be incurred are in the same community council area, when requested by two or more councillors in the relevant community council area subject to the agreement of the chair of the community council in consultation with the appropriate chief officer.

Note: Additional wording indicated by underlining.

36. In respect of community impact, S106 release reports do not attract the same public interest as other items at community council meetings. Member of the public would still be able to make representations on reports when they are considered by the planning

PART 4 – RULES

Access to information procedures rules and cabinet procedures rules

37. On 15 August 2012 the Secretary of State for Communities and Local Government published The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. These regulations came into force on 10 September 2012 and revoked previous access to information regulations. The regulations have resulted in some changes to executive decision making which require a review of the access to information procedure rules.
38. The regulations also required some changes to executive decision making process such as changes to the forward plan, background documents and publication of important individual officer decisions. The access to information procedure rules need updating to reflect the new arrangements.
39. The regulations apply to executive arrangements only – covering cabinet, some decision making at community councils and individual decision making (by cabinet members and chief officers). The regulations do not apply to other meetings of the council.

Closed meetings of cabinet

40. Some of the key changes introduced by the regulations relate to private meetings of cabinet, or what is known in Southwark as the closed part of the meeting. Under the regulations, if cabinet intend to meet in closed session for all or part of the meeting then 28 clear days' notice of the intention and reasons to hold a closed meeting must be given so that people can make representations to request the meeting be held in public. A further 5 clear days notice must be given, including a statement of why the meeting will continue to be closed, if representations have been received. These notices have been incorporated into the forward plan and the cabinet agenda. In the event that 28 clear days' notice of a closed cabinet meeting is not given then an urgency procedure can be followed whereby the chair of overview and scrutiny committee or the Mayor if the chair is unable to act may give permission for cabinet to meet in closed session if he or she is satisfied the matter is urgent and cannot be reasonably deferred. A notice must be available for inspection at the council's offices and online in the event urgency procedures are followed. These changes are reflected in the proposed access to information procedure rules. These procedures only apply to meetings where executive decisions are taken i.e. cabinet and its sub-committees and community councils. It is unlikely that community councils will be required to hold closed meetings due to the nature of the decisions they take. The changes are set out in Appendix C.

Publicity in connection with key decisions/forward plan

41. Previously local authorities were required to publish a forward plan which gave notice of key decisions expected to be taken in a four month period. The forward plan was required to be published 14 days before the date which the plan came into effect. The minimum notice for a key decision is now 28 clear days. The forward plan is now published 28 clear days before the start of each month, so the forward plan to cover decisions from 1 January 2013 was published on 3 December 2012. The new requirements for the forward plan have been included in Appendix D.
42. The plan incorporates the 28 clear days' notice of a closed cabinet meeting (referred to in paragraph 8 above). In addition the plan is now required to list those documents to be submitted to the decision maker for consideration before a key decision is made – this has also been incorporated.

General exception and special urgency

43. The processes when a key decision is not on the forward plan or is urgent and five clear days notice remain the same. However there is now a requirement to publish a notice with the reasons why the item was not on the forward plan and/or is urgent. The current general exception notice fulfils these requirements and these are published on the council's website. The notices are compiled by the proper officer – who would be the proper constitutional officer.

Background documents

44. There is also a requirement that background documents, listed in reports for an executive meeting, are made available on the council's website. This includes cabinet and community councils when considering decisions relating to executive functions. Prior to the regulations, background documents were only

required to be listed and available for inspection. They include previously published council reports, government or other external publications or internal documents: business plans, correspondence, policies, etc. An address or contact is listed so that report authors can be contacted to inspect background documents.

45. The definition of background documents remain the same – that is documents that relate to the subject matter of the report and disclose any facts or matters on which the report or an important part of the report is based and were relied on to a material extent in preparing the report. The definition does not include published works. These requirements have been addressed in proposed access to information rules and amended cabinet report template. Exempt documents do not need to be listed.

Publication of executive decisions

46. As a result of the regulations, some non-key decisions taken by chief officers will be published on the council's website; this will include decisions which are sufficiently important and/or sensitive to be publicly available. Non-key decisions will also be subject to call-in, if published. The only executive decisions which won't be published are those taken by officers as follows:
- A decision which affects only particular individuals as opposed to the public generally;
 - A decision which is merely administrative in nature with only a remote connection with an executive function;
 - A decision which is so minor or routine or is otherwise one which would reasonably be considered to be of no interest to a reasonable member of the public.
47. As with all areas of delegation, the chief officer can also consider referring the decision to the appropriate cabinet member, or to full cabinet, if the chief officer considers there is significant public interest. This requirement does not apply to administrative or routine decisions or issues relating to individual(s). There are no changes to the strong leader delegation of executive functions.
48. An additional clause has been included into the cabinet procedure rules to extend individual decision making from cabinet members to chief officers (see Appendix D). The decisions will be recorded on a record of decision sheet similar to that used by individual cabinet members. The format will have some minor changes to reflect specific requirements in the regulations on how the officer decisions are to be recorded.

Cabinet procedure rules – recording, filming and photography at cabinet meeting

49. The regulations require a clause to be included on recording, filming and photography at cabinet meetings. Following consultation, the leader of the council has requested that a rule similar to the council assembly procedure rule on this subject be inserted into the cabinet procedure rules. A new clause is set out in Appendix D.

50. There are some resource implications associated with the publishing of officer executive decisions. The key decisions are already logged on the council's decision making system when the forward plan is generated, but will require the whole decision process to be executed on-line in future. There will also be some additional workload on departmental officers who will be required to prepare reports in accordance with the corporate templates and to provide open and closed reports in the case of exempt information. There are no specific additional resource requirements associated with the adoption of the other changes.
51. In respect of community impact, the press release from the Department for Communities and Local Government (DCLG) about the new regulations states the purpose is to introduce greater openness and transparency in executive decision making.

PART 6 – PROTOCOLS

Member and officer protocol and communications protocol

52. The member and officer protocol and communication protocol were introduced in May 2004.
53. The standards committee have a role of advising the council on the revision of these protocols. The protocols are further considered by the constitutional steering panel and agreed by council assembly.
54. At their meeting of 24 April 2013 the standards committee considered the member and officer protocol and resolved that further clarification was required.
55. The standards committee considered the protocol again on 11 June 2013 and referred its decisions to CSP on 17 June 2013. CSP concurred with the standards committee decisions and the recommendations outlined below stand referred to council assembly for agreement.
56. The member and officer protocol paragraphs 50 and 51 is being amended to reflect the changes in democratic services role and consequential amendments on room booking following the commissioning of Queens Road.
57. The member and officer protocol paragraph 35 is being amended to better ensure chief officers are aware of visits of members to services. This includes the further clarification requested by members at the previous meeting.
58. Paragraph 33 is being amended to deal with situations where the partner of a member receives a gift or hospitality as a result of being their partner.
59. Other changes have been made to reflect changes on the Source.
60. A marked up copy of the proposed protocol is attached as Appendix G.

Communications protocol

61. For completeness a marked up copy of the proposed communications protocol is attached as Appendix H.
62. In respect of community impact, good relationships between members and

officers are very important in aiding the decision-making process and helping to boost public confidence in the council. A protocol that defines each party's responsibilities creates certainty, which in turn leads to better decision-making and a more satisfied customer.

Resource implications

63. There are some resource implications associated with the changes outlined above but these can be dealt with within existing budgets.
64. 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

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

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Southwark Constitution http://www.southwark.gov.uk/info/10058/about_southwark_council/375/councils_constitution	160 Tooley Street, London SE1 2QH	Constitutional Team constitutional.team@southwark.gov.uk 020 7525 7228
Community council chairs and vice chairs meeting minutes 20 March 2013	160 Tooley Street, London SE1 2QH	Alexa Coates Constitutional Team 020 7525 7385
Code of recommended practice on local authority publicity	160 Tooley Street, London SE1 2QH	Norman Coombe Legal Services 020 7525 7678

APPENDICES

Appendix	Title
Appendix A	Part 2: Articles - Proposed changes
Appendix B	Part 4: Rules - Revised OSC procedure rules
Appendix C	Part 4: Rules - Revised access to information rules
Appendix D	Part 4: Rules - Revised cabinet procedure rules
Appendix E	Part 6: Protocols – Revised member and officer protocol
Appendix F	Part 6: Protocols – Revised communication protocol

AUDIT TRAIL

Lead Officer	Alexa Coates, Principal Constitutional Officer	
Report Author	Lesley John, Constitutional Officer	
Version	Final	
Dated	25 June 2013	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Legal Services	Yes	Incorporated in the report
Strategic Director of Finance and Corporate Strategy	Yes	Incorporated in the report
Cabinet Member	No	No
Date final report sent to Constitutional Team		27 June 2013

PART 2 – ARTICLES

Article 1 – The constitution

1.1 Powers of the council

The council will exercise all its powers and duties in accordance with the law and this constitution.

1.2 Purpose of the constitution

The purpose of the constitution is to:

- a) enable the council to provide clear leadership to the community in partnership with citizens, businesses and other organisations
- b) support the active involvement of citizens in the process of local authority decision making
- c) help councillors represent their constituents more effectively
- d) enable decisions to be taken efficiently and effectively
- e) create a powerful and effective means of holding decision makers to public account
- f) ensure that no one will review or scrutinise a decision in which they were directly involved
- g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions
- h) provide a means of improving the delivery of services to the community.

1.3 Principles of decision making

All decisions of the council will be made in accordance with the following principles:¹

- a) the link between strategy and implementation must be maintained
- b) decision making generally, whether by individual officers, individual cabinet members or the cabinet collectively, should have reference to the policy framework
- c) respect for human rights, law and probity

¹(a) and (b) local additions; (c) to (g) statutory guidance; (c) law and probity added to modular constitution principle.

- d) due consultation and the taking of professional advice from officers
- e) proportionality (i.e. the action must be proportionate to the desired outcome)
- f) a presumption in favour of openness
- g) clarity of aims and desired outcomes.

1.4 Interpretation of the constitution

Where the constitution permits the council to choose between different courses of action, the council will always choose that option which it thinks is closest to the purposes stated above.

1.5 Changes to the constitution

- a) Subject to b) below, any changes to the constitution which can only be approved by the council assembly will require the prior consideration of the proposal by the constitutional steering panel.
- b) The constitution and its appendices will be changed as follows:

Part	Title	Changes by:
1.	Introduction	Agreed by council assembly, subsequently updated by the proper constitutional officer as necessary. Changes notified to all members by proper constitutional officer.
	Decision making structure	Maintained and published by the proper constitutional officer.
2.	Articles	Agreed by council assembly. Exception – in article 10.02, head of paid service to determine and publicise a description of overall departmental structure showing the management structure.
3.	Who takes decisions?	Any executive function or local choice function to be discharged by the cabinet: Agreed by the leader Any other function: Agreed by council assembly. Exceptions – proper constitutional officer to: (1) update list of plans and strategies to be agreed by cabinet (in Part 3B) (2) update the details of cabinet members (3) maintain Part 3S: Appointments to outside bodies, as required.
4.	Procedure rules	
	Access to information	Agreed by council assembly.
	Budget and policy framework	Agreed by council assembly.
	Council assembly	Agreed by council assembly.
	Committee	Agreed by council assembly.
	Community council	Agreed by council assembly.
	Cabinet	Agreed by council assembly.
	Overview and Scrutiny	Agreed by council assembly.

Part	Title	Changes by:
	Contract standing orders (CSOs)	Agreed by council assembly, with minor changes (as defined in the CSOs) being made by the monitoring officer, after consultation with the chief finance officer. Changes notified to all members by proper constitutional officer.
	Financial standing orders (FSOs)	Agreed by council assembly, with minor changes (as defined in the FSOs) being made by the chief finance officer, after consultation with the monitoring officer. Changes notified to all members by proper constitutional officer.
	Officer employment	Agreed by council assembly.
5.	Codes	
	Code of conduct	Agreed by council assembly.
6.	Protocols	
	Member and officer	Agreed by council assembly.
	Communication	Agreed by council assembly.
	Members' allowances scheme	Agreed by council assembly.
7.	Other information	
	List of councillors	Maintained and published by the proper constitutional officer.
	Overall departmental structure showing the management structure.	Determined and published by the chief executive (Article 10.02).
	Glossary	Maintained and published by the proper constitutional officer.
	Index	Maintained and published by the proper constitutional officer.
	Other	Background information on constitution and decision making including flow charts. Maintained and published by the proper constitutional officer.

- c) For the purpose of the constitution the proper constitutional officer will be designated by the chief executive and will include his/her authorised representative.

Article 2 – Members of the council

2.1 Roles and functions of all councillors

All councillors will:

- a) represent their communities and bring their views into the council's decision making process, i.e. become the advocate of and for their communities
- b) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances
- c) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole

- d) maintain the highest standards of conduct and ethics
- e) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making functions
- f) sit on council assembly.

Article 3 – Council assembly

3.1 Council assembly

All councillors sit on the council assembly. The assembly is chaired by the Mayor of Southwark.

The council assembly is responsible for approving the budget, agreeing the policy framework, making constitutional decisions and deciding on local legislation.

Article 4 – Role and function of the Mayor

4.1 Title of the person chairing council assembly meetings

The person elected to chair the meetings of the council assembly shall be referred to as the Mayor.

4.2 Role and function of the Mayor

The Mayor will be elected by the council at the annual council assembly meeting. The Mayor may then appoint a Deputy Mayor.

The Mayor will have the following roles and functions:

- a) to uphold and promote the purposes of the constitution and to interpret the constitution when necessary
- b) to preside over meetings of the council assembly so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community
- c) to ensure that the council assembly meeting is a forum for the debate of matters of concern to the local community and the place at which councillors who are not on the cabinet are able to hold the cabinet to account
- d) to promote public involvement in the council's activities
- e) to attend such civic and ceremonial functions as the council and the Mayor determine appropriate
- f) to receive any request from the leader for a council assembly meeting to be convened to reconsider a decision in respect of the budget and policy framework, in accordance with the council's conflict resolution mechanism.

4.3 **Role of the Deputy Mayor**

The Deputy Mayor may, if for any reason the Mayor is unable to act or the office of Mayor is vacant, discharge all the functions which the Mayor might otherwise discharge, except that the Deputy Mayor shall not take the chair at a meeting of the council assembly unless specifically appointed by the meeting to do so.

Article 5 – Overview and scrutiny committee and sub-committees

5.1 **General role**

The council will appoint an overview and scrutiny committee to discharge the functions conferred by section 9A ~~section 24~~ of the Local Government Act 2000. The overview and scrutiny committee will appoint sub-committees and determine their terms of reference.

The overview and scrutiny committee will also discharge those functions of the council relating to the scrutiny of the health service contained in the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, except where a function is reserved to the council.

Where a NHS body or health service provider consults the council and another authority or authorities about a proposal for a substantial development of or variation to the health service affecting each council's area, the overview and scrutiny committee will appoint a joint overview and scrutiny committee with the other authority or authorities for the purposes of that consultation.

5.2 ~~General role~~ Within their terms of reference, the overview and scrutiny committee and its sub-committees will:

- a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions
- b) make reports and/or recommendations to council assembly and/or the cabinet in connection with the discharge of any functions
- c) consider any matter affecting the area or its inhabitants.

5.3 **Specific functions**

Policy development and review

Overview and scrutiny committee and its sub-committees may:

- a) assist council assembly and the cabinet in the development of its budget and policy framework by in-depth analysis of policy issues

- b) conduct research, community and other consultation in the analysis of policy issues and possible options
- c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options
- d) question members of the cabinet and chief officers about their views on issues and proposals affecting the area
- e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working
- f) decide whether to consult with community councils as part of the consideration of the budget and policy framework.

Scrutiny

Overview and scrutiny committee and its sub-committees may:

- a) review and scrutinise the decisions made by and performance of the cabinet and council officers both in relation to individual decisions and over time
- b) review and scrutinise the performance of the council in relation to its policy objectives, performance targets and/or particular service areas
- c) consider referrals from members on any of the functions of the committee/sub-committee
- d) question members of the cabinet and chief officers and relevant partner authorities about their decisions and performance, whether generally in comparison with local area agreements, service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects
- e) make recommendations to the cabinet and/or council assembly arising from the outcome of the scrutiny process or refer entire reports produced as the result of the scrutiny process to be debated and noted at council assembly
- f) give notice of its recommendations to the cabinet and/or council assembly and publish recommendations
- g) give notice of its recommendations to the relevant partner authority
- h) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee/sub-committee and local people about their activities and performance
- i) question and gather evidence from any person (with their consent).

Crime and disorder

Overview and scrutiny committee and its sub-committees may:

- a) act as the crime and disorder committee within the meaning of section 19 of the Police and Justice Act 2006
- b) review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions
- c) make reports or recommendations to the local authority with respect to the discharge of those functions
- d) make recommendations to the cabinet and/or council assembly with respect to any matter which is a local crime and disorder matter in relation to a member of the authority
- e) consider any crime and disorder matters referred by any member of the council.

Health and wellbeing

Overview and scrutiny committee and its sub-committees must acknowledge, and respond to, a referral of a matter for review and scrutiny received from a local Healthwatch organisation.

Overview and scrutiny committee and its sub-committees may:

- (a) review and scrutinise the work of the Health and Wellbeing Board
- (b) review and scrutinise any matter relating to the planning, provision and operation of the health service in its area (but in doing so it must invite comments from interested parties and consider information provided by a Local Healthwatch organisation or contractor)
- (c) make reports and recommendations to a NHS body or health service provider and the council on any matter it has scrutinised
- (d) consider consultations from a NHS body or health service provider and to make comments
- (e) question members or employees of a NHS body or health service provider

5.4 Annual report

The overview and scrutiny committee will report annually to council assembly on the workings of the overall scrutiny function, and may make recommendations for future work programmes and amended working methods if appropriate.

5.5 **Key tasks of chairs of overview and scrutiny committee and sub-committees**

Overview and scrutiny committee and sub-committee chairs will:

- a) lead the scrutiny function
- b) propose to the appropriate committee/sub-committee a programme of work devised in consultation with senior management
- c) achieve a balance of service interests
- d) achieve broad coverage across all services over time
- e) propose arrangements for the involvement of community or other non-councillor representatives
- f) own and present the resulting reports (to the council assembly or the cabinet, including any minority views which might be reported separately).

Article 6 – The cabinet

6.1 **Role**

The cabinet will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this constitution. The role and functions of the cabinet are set out in part 3B of this constitution.

6.2 **Form and composition**

The cabinet will consist of the leader together with no less than two and no more than nine councillors appointed to the cabinet by the leader.

6.3 **Leader**

The leader will be a councillor elected to the position of leader by the council assembly. The leader will hold office until:

- a) he/she resigns from the office by giving notice in writing to the monitoring officer
- b) he/she is suspended from being a councillor under part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension)
- c) he/she is no longer a councillor
- d) he/she is removed from office by resolution of the council assembly.
- e) his/her term of office ends.

The leader's term of office shall commence from the day of his/her election, which will be held at the first annual meeting of the council following the ordinary elections or if a vacancy occurs, the next meeting of the council and will end at the start of the first annual meeting of the council following the next ordinary elections.

6.4 **Other cabinet members**

Other cabinet members shall be appointed by the leader and hold office until:

- a) they resign from office by giving notice in writing to the leader and the monitoring officer
- b) they are suspended from being councillors under part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension)
- c) they are no longer councillors
- d) they are removed by the leader.

If a cabinet member ceases to be a member of the cabinet because of reasons (a) to (d) above, the leader has the discretion as to whether or not to appoint a replacement.

During the course of the year the leader has the discretion to change cabinet portfolios.

The leader also has the discretion to change the membership of cabinet committees during the course of the year. Before the leader removes a member of the cabinet he/she will consult with the deputy leader.

The leader shall immediately communicate any such changes to the monitoring officer who shall circulate a formal notification to all members.

6.5 **Deputy leader of the council**

The leader shall appoint one of the members of the cabinet to be his/her deputy.

The leader may, if he thinks fit, remove the deputy leader from office. Where a vacancy occurs in the office of deputy leader, the leader must appoint another person in his/her place.

The deputy leader shall hold office until:

- a) he/she resigns from office by giving notice in writing to the leader and the monitoring officer
- b) he/she is suspended from being a councillor under part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension)

- c) he/she is no longer a councillor
- d) he/she is removed by the leader.

6.6 **Non-availability of leader and deputy leader**

If for any reason the leader is unable to act or the office of leader is vacant, the deputy leader must act in his/her place.

If for any reason:

- a) The leader is unable to act or the office is vacant, and
- b) The deputy leader is unable to act or the office of deputy leader is vacant

the cabinet must act in the leader's place or must arrange for a member of the cabinet to act in his/her place.

6.7 **Who may make executive decisions**

The executive functions of the council may be discharged by:

- a) the cabinet as a whole
- b) a committee of the cabinet
- c) an individual member of the cabinet
- d) community councils
- e) an officer
- f) joint arrangements
- g) another local authority.

6.8 **Delegation by the leader**

At the annual meeting of the council, the leader will present to the council a written record of delegations made by him/her for inclusion in the council's scheme of delegation at part 3 of this constitution. The document presented by the leader will contain the following information about executive functions in relation to the coming year:

- a) the extent of any authority delegated to cabinet members individually, including details of the limitation on their authority
- b) the terms of reference and constitution of such cabinet committees as the leader appoints, the names of cabinet members appointed to them, the vice-chair of the committees and the frequency of its meetings
- c) the nature and extent of any delegation of executive functions to community councils, any other authority or any joint arrangements and

the names of those cabinet members appointed to any joint committee for the coming year

- d) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

During the course of the year the leader may provide written notice of any change to the delegation of executive functions to the monitoring officer, who shall circulate a formal notification to all members.

6.9 Key tasks of cabinet members

Cabinet members will participate in the cabinet and implement agreed policies by taking responsibility for any portfolio allocated by the authority, including providing a lead on and proposing new policy, strategy, programming, budget and service standards, and leading performance review, as well as acting as spokespersons within and outside the authority for the service/function.

6.10 Deputy cabinet members

Other members of the council may, from time to time, be designated by the leader as deputy cabinet members to work with cabinet members on specific tasks or duties. Such a deputy cabinet member will not be a cabinet member and may not exercise any delegated powers given to the cabinet member, but may work closely with the relevant cabinet member. Whilst a deputy cabinet member may be a member of a committee, scrutiny committee or scrutiny sub-committee, he or she will not be permitted to take decisions or scrutinise any of their own deputy cabinet member tasks or duties. Deputy cabinet members shall not be the chair or vice-chair of a committee or sub-committee which takes decisions or scrutinises matters relating to their tasks or duties. The chairs of the licensing and planning committees shall not be deputies.

The leader shall notify the monitoring officer of the appointment of a deputy, including the responsibilities allocated and the period for which the deputy will act.

Article 7 – Regulatory and other committees

7.1 Regulatory and other committees

The council will appoint committees to undertake non-executive functions. Council assembly will delegate powers to these committees to discharge their relevant functions.

7.2 Key tasks of chairs of regulatory and other committees

Chairs of the authority's committees will take specific responsibility for the development of that committee's work plan and represent the service or function of the committee within and outside the authority as necessary to enable it to deliver its objectives consistently to corporate standards.

Article 8 – Community councils

8.1 Composition

Composition of community councils

The council will appoint community councils (defined as “area committees” in legislation) as set out in the table below. Community councils do not need to be politically balanced. In addition community councils can only include members of the local authority who are members for the electoral wards wholly or partly contained within the area for which the community council has functions.

Name of community council	Members from electoral wards serving on community councils
Bermondsey and Rotherhithe	Grange, Livesey (north of Old Kent Road), Riverside and Rotherhithe, South Bermondsey and Surrey Docks wards
Borough, Bankside and Walworth	Cathedrals, Chaucer, East Walworth, Faraday and Newington wards.
Camberwell	Brunswick Park, Camberwell Green and South Camberwell wards.
Dulwich	College, East Dulwich and Village wards.
Peckham and Nunhead	Livesey (south of Old Kent Road), Nunhead, Peckham, Peckham Rye and The Lane wards.

Note on voting rights of Livesey ward members. In respect of Livesey ward members they shall serve as:

- voting members on Peckham and Nunhead community council
- voting members on Bermondsey and Rotherhithe community council.

8.2 Cabinet members on community councils

A member of the cabinet may serve on a community council if otherwise eligible to do so as a councillor.

8.3 Key tasks of chairs of community councils

Chairs of community councils will take specific responsibility for the development of the community council’s work plan, propose arrangements for the involvement of the community, and participate in consultation and decision making in the local area.

Article 9 – Joint arrangements

The Local Government Act 2000 and regulations enable local authorities to make use of joint arrangements with other authorities and delegate to other local authorities.²

9.1 Arrangements to promote well being

The council, or the cabinet, in order to promote the economic, social or environmental well being of its area, may:

- a) enter into arrangements or agreements with any person or body
- b) cooperate with, or facilitate or coordinate the activities of, any person or body
- c) exercise on behalf of that person or body any functions of that person or body.

9.2 Joint arrangements

- a) The council may establish joint arrangements with one or more local authorities and/or their cabinets to exercise functions which are not executive functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- b) The cabinet may establish joint arrangements with one or more local authorities to exercise functions, which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- c) The cabinet may appoint only cabinet members to a joint committee under paragraph b) above, and those members need not reflect the political composition of the local authority as a whole.
- d) Details of any joint arrangements including any delegations to joint committees will be found in the council's scheme of delegations in part 3 of this constitution.

9.3 Access to information

- a) The access to information procedure rules in part 4 of this constitution apply to joint arrangements.
- b) If all the members of a joint committee are members of the cabinet in each of the participating authorities then its access to information regime is the same as that applied to the cabinet.
- c) If the joint committee contains members who are not on the cabinet of any participating authority then the access to information rules in part VA of the Local Government Act 1972 will apply.

² A detailed schedule of arrangements with other authorities will be partly dependent on decisions taken by other councils.

9.4 **Delegation to and from other local authorities**

- a) The council may delegate non-executive functions to another local authority or, in certain circumstances, the cabinet of another local authority.
- b) The cabinet may delegate executive functions to another local authority or the cabinet of another local authority in certain circumstances.
- c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the council meeting.

9.5 **Contracting out**

The council, for functions which are not executive functions, and the cabinet, for executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994,³ or under contracting arrangements where the contractor acts as the council's agent under usual contracting principles, provided there is no delegation of the council's discretionary decision.

Article 10 – Officers

10.1 **Management structure**

- a) **General.** The council may engage such staff (referred to as officers), as it considers necessary to carry out its functions.
- b) **Chief officers.** The council will engage, on the advice of the head of paid service, persons for the posts designated as chief officers for prescribed service portfolios. The head of paid service will determine and publicise a description of the overall departmental structure of the council showing the management structure and deployment of officers.
- c) **Head of paid service, monitoring officer, chief finance officer and scrutiny officer.** The council assembly will designate the following posts as shown:

³ Government guidance suggests that councils may wish to make clear those functions to which this section currently or potentially applies.

Post	Designation
Chief executive	Head of paid service
Director of legal services	Monitoring officer
Strategic director of finance and corporate services	Chief finance officer
Head of overview and scrutiny	Scrutiny officer

Such posts will have the functions described in article 10.2 – 10.5 below.

10.2 **Functions of the head of paid service**

- a) **Undertaking duties of head of paid service.** The head of paid service shall undertake all duties designated under section 4 of the Local Government and Housing Act 1989. These are personal functions and must be undertaken by the head of paid service personally. Where the head of paid service is also the chief executive he/she may delegate other functions that are not included in section 4.
- b) **Discharge of functions by the council.** The head of paid service will report to council assembly on the manner in which the discharge of the council's functions is coordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- c) **Restrictions on functions.** The head of paid service may not be the monitoring officer but may hold the post of chief finance officer if a qualified accountant.

10.3 **Functions of the monitoring officer**

- a) **Legal proceedings.** The monitoring officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the council or in any case where he/she considers that such action is necessary to protect the council's interests.
- b) **Ensuring lawfulness and fairness of decision making.** After consulting with the head of paid service and chief finance officer, the monitoring officer will report to the council assembly (or to the cabinet in relation to an executive function) if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c) **Supporting the standards committee.** The monitoring officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the standards committee.

- d) **Conducting investigations.** The monitoring officer will arrange for investigations into matters referred to him or her and make reports or recommendations in respect of them to the standards committee.
- e) **Advising whether executive decisions are within the budget and policy framework.** The monitoring officer will advise whether decisions of the cabinet are in accordance with the budget and policy framework.
- f) **Providing advice.** The monitoring officer will provide advice on the scope of powers and authority to take decisions, maladministration, impropriety, probity, and budget and policy framework issues to all councillors and to officers. The monitoring officer shall also provide advice to officers and members in relation to interests.
- g) **Appointment of a deputy.** The monitoring officer shall appoint a deputy to act in his/her absence and when the monitoring officer is unable to act as defined in section 5 of the Local Government and Housing Act 1989.
- h) **Restrictions on posts.** The monitoring officer cannot be the chief finance officer or the head of paid service.
- i) **Proper officer for freedom of information.** The monitoring officer will act as the “qualified person” for the purposes of freedom of information requests and application of the public interest tests.

10.4 Functions of the chief finance officer

- a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the head of paid service and the monitoring officer, the chief finance officer will report to the council assembly or to the cabinet in relation to an executive function and the council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the council is about to enter an item of account unlawfully.
- b) **Administration of financial affairs.** The chief finance officer will have responsibility for the administration of the financial affairs of the council.
- c) **Contributing to corporate management.** The chief finance officer will contribute to the corporate management of the council, in particular through the provision of professional financial advice.
- d) **Providing advice.** The chief finance officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- e) **Give financial information.** The chief finance officer will provide financial information to the media, members of the public and the community.

10.5 Functions of the scrutiny officer

- a) To promote the role of the authority's overview and scrutiny committee or committees.
- b) To provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees.
- c) To provide support and guidance to:
 - i. members of the authority
 - ii. members of the cabinet of the authority, and
 - iii. officers of the authority

in relation to the functions of the authority's overview and scrutiny committee or committees.

- d) **Restrictions on functions.** The scrutiny officer may not be the head of paid service, monitoring officer or chief finance officer.

10.6 Duty to provide sufficient resources to the monitoring officer and chief finance officer

The council will provide the monitoring officer and chief finance officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

Article 11 – Documents

11.1 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the council, it will be signed by the monitoring officer or other person authorised by him/her, unless any enactment is otherwise authorised or required, or the council has given requisite authority to some other person.

Any contract, other than ones to which contract standing orders apply, with a value exceeding the current threshold for services/supplies under the EU public procurement directive⁴ entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing and must be either:

- a) signed by at least two officers of the authority
- b) made under the common seal of the council attested by at least one officer.

⁴ The current thresholds (net of VAT) under the EU public procurement directive are as follows:

- supplies and services – £156,442
- works – £3,927,260

11.2 Common seal of the council

The common seal of the council will be kept in a safe place in the custody of the monitoring officer. A decision of the council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The common seal will be affixed to those documents which in the opinion of the monitoring officer should be sealed. The affixing of the common seal will be attested by the monitoring officer or some other person authorised by him/her.

Article 12 – Suspension and publication of the constitution

12.1 Suspension of the constitution

Limit to suspension. The articles of this constitution may not be suspended. The procedure rules listed in the council assembly procedure rules may be suspended by the council assembly to the extent permitted within the rules and the law.

The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the constitution set out in article 1.

12.2 Publication

- a) The proper constitutional officer will make copies of this constitution available to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on their first being elected to the council. Printed copies of the constitution are available to members on request.
- b) The proper constitutional officer will ensure that the introduction to the constitution is made widely available within the area and is updated as necessary.
- c) The constitution will be published on the council's website.

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Arrangements for overview and scrutiny

- 1.1 The council will appoint an overview and scrutiny committee. The overview and scrutiny committee will appoint three scrutiny sub-committees and determine their terms of reference.
- 1.2 The overview and scrutiny committee and its sub-committees may appoint informal member working groups to undertake specific tasks. While such bodies cannot substitute for the scrutiny committees, or exercise the powers associated with scrutiny (which are the preserve of the scrutiny committees) they can contribute to or inform the scrutiny process.

2. Membership of overview and scrutiny committees and its sub-committees

- 2.1 All councillors except members of the cabinet may be members of the overview and scrutiny committee and sub-committees. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.
- 2.2 The overview and scrutiny committee will consist of:
 - a) a chair, appointed by council assembly
 - b) a vice-chair, appointed by council assembly
 - c) the chairs of the three scrutiny sub-committees, provided that the proportionality rules are not compromised and provided that each political group is permitted to nominate non-cabinet members should this be necessary to maintain proportionality
 - d) education representatives as set out at paragraph 4.
- 2.3 Overview and scrutiny committee will appoint the chairs and vice-chairs of the scrutiny sub-committees and agree the size and composition of the sub-committees, in accordance with the statutory rules relating to proportionality.
- 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 and one fewer than the number of places each group holds on each of the sub-committees, subject to a minimum of one.

3. Co-optees

- 3.1 Overview and scrutiny committee and its sub-committees may appoint a number of people as non-voting co-optees, with the approval of the chair and vice chair of the overview and scrutiny committee, who may be appointed to serve for the full year or the duration of a specific task or review.
- 3.2 In the event that a co-opted member does not attend a meeting of the committee on which they serve for a period of six consecutive months, without the approval of the council, they shall cease to be a member of the authority.

4. Education representatives

- 4.1 Overview and scrutiny committee and any sub-committee dealing with education functions shall include in its membership the following voting representatives:
- a) one Church of England diocese representative
 - b) one Roman Catholic diocese representative
 - c) two duly elected parent governor representatives
- 4.2 Overview and scrutiny committee and any sub-committee dealing with education functions may also contain the following co-opted, non-voting members:
- a) up to three representatives of other faiths or denominations, of which at least two should be from non-Christian faiths
 - b) up to two co-opted non-voting representatives of community groups.
- 4.3 If the committee/sub-committee deals with any matters outside education functions, the representatives outlined in 4.1 above shall not vote on these matters, though they may stay in the meeting and, with the discretion of the chair, speak.
- 4.4 Voting education representatives on overview and scrutiny committee may only sign a call-in request when the matter called-in relates to an education function.
- 4.5 In the event that an education representative does not attend a meeting of the committee on which they serve for a period of six consecutive months, without the approval of the council, they shall cease to be a representative on the committee.
- ### **5. General terms of reference of all scrutiny committees/sub-committees**
- 5.1 Within their terms of reference, all scrutiny committees/sub-committees will:
- a) produce a one year rolling work programme, which will be approved by the overview and scrutiny committee

- b) review and scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions
- c) review and scrutinise the decisions made by and performance of the cabinet and council officers both in relation to individual decisions and over time in areas covered by its terms of reference
- d) review and scrutinise the performance of the council in relation to its policy objectives, performance targets and/or particular service areas
- e) question members of the cabinet and officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects and about their views on issues and proposals affecting the area
- f) assist council assembly and the cabinet in the development of its budget and policy framework by in-depth analysis of policy issues
- g) make reports and recommendations to the cabinet and or council assembly arising from the outcome of the scrutiny process
- h) consider any matter affecting the area or its inhabitants
- i) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working
- j) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the scrutiny committee and local people about their activities and performance
- k) conduct research and consultation on the analysis of policy issues and possible options
- l) question and gather evidence from any other person (with their consent)
- m) consider and implement mechanisms to encourage and enhance community participation in the scrutiny process and in the development of policy options
- n) conclude inquiries promptly and normally within six months.

6. Terms of reference of the overview and scrutiny committee

6.1 The terms of reference of the overview and scrutiny committee will be:

- a) to appoint three sub-committees, including a sub-committee with responsibility for crime and disorder, agreeing the size, composition and terms of reference and to appoint chairs and vice chairs
- b) to agree the committee's annual work programme and to approve the programmes of the sub-committees

- c) to consider requests from the cabinet and/or council assembly and community councils for scrutiny reviews
- d) to exercise the right to call-in for reconsideration of cabinet decisions made but not yet implemented
- e) to receive and comment on scrutiny reports from the sub-committees
- f) to arrange for relevant functions in respect of health scrutiny to be exercised by an overview and scrutiny committee of another local authority where the council considers that another local authority would be better placed to undertake those relevant functions, and that local authority agrees to exercise those functions
- g) if appropriate, to appoint a joint overview and scrutiny committee with two or more local authorities and arrange for the relevant functions of those authorities to be exercised by the joint committee
- h) to periodically review overview and scrutiny procedures to ensure that the function is operating effectively
- i) to report annually to council assembly on the previous year's scrutiny activity
- j) to determine major funding requests from sub-committees in respect of particular reviews
- k) to scrutinise matters in respect of:
 - the council's policy and budget framework
 - human resources and the council's role as an employer and corporate practice generally
 - customer access issues, including e-government, information technology and communications
 - the council's equalities and diversity programmes.

7. Terms of reference of a joint overview and scrutiny committee appointed to consider proposals relating to the health service

7.1 Where the council is required to form a joint overview and scrutiny committee with another authority or authorities to consider a consultation on a proposal for substantial development of or variation to the health service affecting each council's area, it will be for each appointing authority to adopt terms of reference and procedure rules as they consider appropriate.

7.2 The joint overview and scrutiny committee may:

- only consider the relevant matter,
- make comments on the proposal,
- require relevant information or require an employee or member of a NHS body or health service provider to attend and answer questions.

7.3 The joint overview and scrutiny committee will meet for such a period as is necessary to consider the consultation and make reports and recommendations.

8. Matters within the remit of more than one scrutiny sub-committee

- 7.1 Where a matter for consideration by a scrutiny sub-committee also falls (whether in whole or in part) within the remit of one or more other scrutiny sub-committees, then the sub-committee conducting the review shall either:
- a) invite the chair of the other sub-committee (or his/her nominee) to attend meetings when the matter is being reviewed
 - b) invite the other sub-committee to comment on findings prior to submitting its report to overview and scrutiny committee and the cabinet/council assembly.
- 7.2 If necessary, overview and scrutiny committee will determine which sub-committee will assume responsibility for any particular issue and resolve any issues of dispute between sub-committees.

8. Policy review and development

- 8.1 The cabinet is required to make arrangements for consultation in respect of any proposals to the council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework. The role of the overview and scrutiny committee and its sub-committees in relation to consultation is set out in detail in the budget and policy framework procedure rules.
- 8.2 In relation to council policy, the overview and scrutiny committee/sub-committees may make proposals to the cabinet for developments insofar as they relate to matters within their terms of reference.

9. Meetings of the overview and scrutiny committee and its sub-committees

- 9.1 There shall be at least eight ordinary meetings of the overview and scrutiny committee in each year. In addition, there shall be at least one ordinary meeting of the overview and scrutiny committee (or sub-committee) acting as the crime and disorder committee in each year. Extraordinary meetings may be called by the chair of the committee, by two-thirds of the committee's voting membership or by the proper officer if he or she considers it necessary or appropriate.
- 9.2 The chair of the committee may also cancel a meeting for lack of business, or reschedule a meeting, having first consulted with the designated representatives of all political groups recognised by the council.
- 9.3 The sub-committees shall determine their own arrangements for meetings.
- 9.4 A schedule of meetings will be published at the beginning of each municipal year.

10. Quorum

- 10.1 The quorum for the overview and scrutiny committee and its sub-committees shall normally be 25% of the voting membership of the relevant committee/sub-committee but no fewer than two.

11. Prohibition of party whip over voting on overview and scrutiny committee/sub-committees

11.1 The party whip does not apply to meetings of overview and scrutiny committees or sub-committees.

11.2 The expression "party whip" is taken to mean "any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner."

12. Procedure at overview and scrutiny committee/sub-committee meetings

12.1 The overview and scrutiny committee and its sub-committees shall consider the following business (with the exception of c) which only applies to overview and scrutiny committee):

- a) minutes of the last meeting
- b) declarations of interest
- c) consideration of any matter referred to the committee for a decision in relation to call-in of a decision
- d) consideration of any councillor call for action
- e) responses of the cabinet to reports of the committee
- f) business otherwise set out on the agenda for the meeting.

13. Formal records to be maintained

13.1 No meeting of overview and scrutiny committee or any of its sub-committees shall commence or conduct business unless the monitoring officer or their representative is present. All meetings are to be clerked by a representative of the scrutiny officer, with minutes to be produced including details of members attending and details of decisions taken. Copies of all agendas and minutes are to be maintained by the scrutiny officer.

14. Work programmes

14.1 Each of the scrutiny committees will develop an annual work programme.

14.2 The overview and scrutiny committee will approve and review the individual work programmes of the sub-committees.

14.3 Five members of the council may request the overview and scrutiny committee to consider an individual addition or subtraction to the work programme of a sub-committee.

15. Agenda items

15.1 Any member of the overview and scrutiny committee or a sub-committee shall be entitled to give notice to the scrutiny officer that he/she wishes an item relevant to the functions of the committee/sub-committee of which they are a member to be included on the agenda for the next available meeting. On receipt of such a request the scrutiny officer will ensure that it is included on

the next available agenda. This rule will apply where the councillor call for action procedure set out in paragraph 15.3 does not apply.

- 15.2 Any two members of the council who are not members of the overview and scrutiny committee or a sub-committee may give written notice to the scrutiny officer that they wish an item to be included on the agenda of that committee/sub-committee. If the scrutiny officer receives such a notification, then he/she will include the item on the first available agenda of the committee/sub-committee for consideration. This rule will apply where the councillor call for action procedure set out in paragraph 15.3 does not apply.
- 15.3 Any member of the council may give written notice to the scrutiny officer that they wish to refer a councillor call for action to overview and scrutiny. If the scrutiny officer receives such a notification then he/she will include the item on the agenda of the first appropriate committee or sub-committee for consideration as to whether it is valid in accordance with the councillor call for action scheme.

16. Overview and scrutiny budget

- 16.1 Within the agreed budget for overview and scrutiny, the overview and scrutiny committee/sub-committees may:
- a) hold enquiries and investigate the available options for future direction in policy development
 - b) appoint advisers and assessors to assist them in this process
 - c) go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations
 - d) ask witnesses to attend to address them on any matter under consideration
 - e) pay any advisers, assessors and witnesses a reasonable fee and expenses for doing so.
- 16.2 The overview and scrutiny committee will have responsibility for monitoring the budget for additional scrutiny research and determining funding requests from its sub-committees in respect of particular reviews.

17. Members and officers giving account

- 17.1 Overview and scrutiny committee or a sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions. In fulfilling the scrutiny role, a committee may require any member of the cabinet, the head of paid service and/or any senior officer to attend before it to explain, in relation to matters within their remit:
- a) any particular decision or series of decisions
 - b) the extent to which the actions taken implement council policy
 - c) their performance

and it is the duty of those persons to attend if so required.

17.2 In fulfilling the scrutiny role, a committee may require any deputy cabinet member to attend before it to explain, in relation to matters within their remit, their performance and it is the duty of those persons to attend if so required.

17.3 In response to the receipt of a petition (with 500 or more signatures) requesting that an officer be held to account at a meeting of an overview and scrutiny committee or sub-committee, a meeting may require a named officer to report and be questioned on their actions (as set out in the council's petition scheme). It is the duty of those persons to attend if so required.

17.4 Where any member or officer is required to attend a scrutiny committee/sub-committee under this provision, the chair of the committee/sub-committee will inform the scrutiny officer. The scrutiny officer shall inform the member or officer in writing giving at least five clear working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account, the specific area of inquiry and whether any papers are required to be produced for the committee/sub-committee.

17.5 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the scrutiny officer in consultation with the committee/sub-committee and the member or officer shall arrange an alternative date for attendance.

18. Attendance by others and public attendance

18.1 A scrutiny committee may invite people other than those people referred to in paragraph 17 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Attendance by these people is optional.

18.2 Where people attend to give evidence as part of an investigation, meetings are to be conducted in accordance with the following principles:

- a) that the investigation be conducted fairly and all members of the committee/sub-committee be given the opportunity to ask questions of attendees, and to contribute and speak
- b) that those assisting the meeting by giving evidence be treated with respect and courtesy
- c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

18.3 Members of the public may attend open meetings of scrutiny committees and request to speak.

19. Reports from the overview and scrutiny committee and its sub-committees

- 19.1 Once it has formed recommendations on proposals for development, the overview and scrutiny committee or a sub-committee will prepare a formal report and submit it to the proper constitutional officer for consideration by the cabinet. The committee/sub-committee will also report to council assembly as appropriate (in respect of the budget setting process, relevant scrutiny reports should be forwarded with cabinet recommendations to council assembly).
- 19.2 If the overview and scrutiny committee or a sub-committee cannot agree on one single final report, then any member of the committee/sub-committee may prepare a minority report to be submitted for consideration by the cabinet or council assembly with the majority report.
- 19.3 The cabinet shall consider and provide a written response to a scrutiny committee's/sub-committee's report within two months.
- 19.4 Management of the flow of reports to the cabinet will be the responsibility of the overview and scrutiny committee. Reports are formally routed via the overview and scrutiny committee so that it can add its own comments.

20. Call-in

- 20.1 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.
- 20.2 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.

21. Procedure to call-in a decision

- 21.1 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 ~~from the cabinet or under joint arrangements~~, 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.

- 21.2 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.
- 21.3 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.
- 21.4 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).
- 21.5 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.
- 21.6 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.

22. Decisions not subject to call-in

- 22.1 The following categories of urgent decision are not subject to call-in:
- a) recommendations on the budget and policy framework
 - b) decisions for urgent implementation (Rule 19, access to information procedure rules)
 - c) urgent decisions outside the budget or policy framework (Rule 4, budget and policy framework procedure rules)
 - d) non-key decisions relating to contract standing orders.
- 22.2 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to council assembly with proposals for review if necessary.

23. Procedure following call-in

- 23.1 If the scrutiny officer is of the opinion that a request for a call-in may not be valid, because of a breach of procedure or other reason under this constitution, they shall inform the relevant members (this must always include the chair and vice chair) within one clear working day of receipt of the request. In the event of dispute, the decision of the monitoring officer shall be final.
- 23.2 Following call-in of a decision, the scrutiny officer shall notify the decision maker and the relevant chief officer, who shall suspend implementation of the

decision. If the request for call-in states that the reason for call-in is that the decision is outside the budget or policy framework, the scrutiny officer shall also notify the monitoring officer and chief finance officer in order for a report to be prepared for the overview and scrutiny committee.

23.3 Within five clear working days of the call-in request, and where possible in consultation with the chair of the overview and scrutiny committee, the scrutiny officer shall:

- a) refer the called-in decision to the next meeting of the overview and scrutiny committee, if that meeting is within ten clear working days of the receipt of the call-in request, or
- b) call an extraordinary meeting of the overview and scrutiny committee to consider the called-in decision, to take place as soon as possible and in any case within ten clear working days of the call-in request, or
- c) arrange, where a called-in decision cannot reasonably be considered within the timescale in clauses a) or b) above, an extraordinary meeting of the overview and scrutiny committee to consider the matter outside the normal timetable, unless in the view of the monitoring officer and/or the chief finance officer, in consultation with the relevant chief officer, the matter cannot wait and in which case it shall be considered in accordance with the timescale set out above.

23.4 If the overview and scrutiny committee does not meet within the constitutional timescale set out for call-ins, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the scrutiny meeting, or the expiry of 15 clear working days after the decision was published, whichever is the earlier, unless the provisions of 23.3(c) are applied.

24. Call-in meeting and action required of decision-makers

24.1 The decision maker or an appropriate substitute will be invited to attend and speak at the call-in meeting of the overview and scrutiny committee. Inability to attend will not delay consideration of the called-in decision.

24.2 On meeting, the overview and scrutiny committee will consider the call-in request and in particular whether or not the decision might be contrary to the policy framework or not wholly in accordance with the budget. Advice should be sought from appropriate chief officers, the monitoring officer or the chief finance officer. The monitoring officer's report and/or the chief finance officer's report shall be copied to every member of the council.

24.3 If, having considered the decision and all relevant advice, the overview and scrutiny committee is still concerned about it, then it may either:

- a) refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or
- b) refer the matter to council assembly if the decision is deemed to be outside the policy and budget framework.

- 24.4 If referred to the decision maker, with the exception of community councils they shall then reconsider their decision within a further seven clear working days. If referred back to a community council, reconsideration will wait until the next scheduled meeting of the community council, unless the monitoring officer determines, following consultation with the relevant chief officer and chair of the relevant community council (or in his or her absence the vice-chair), that the matter can not wait in which case it will be considered within seven working days. If it is the view of the monitoring officer or the chief finance officer that the decision falls within the policy and budget framework, the decision maker may amend the decision or not, before adopting a final decision.
- 24.5 If referred to council assembly, the decision is further suspended pending a meeting of council assembly, which must take place within seven clear working days of the decision to refer to council. Within this time, the decision maker must decide what action to take in respect of the monitoring officer's and/or the chief finance officer's advice and to prepare a report to council assembly.
- 24.6 If the council assembly does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the council assembly meeting, or the expiry of 15 clear working days after the decision was published, whichever is the earlier.
- 24.7 The council assembly will receive details of the decision, the advice of the monitoring officer and/or the chief finance officer, the comments of the overview and scrutiny committee and the report from the decision maker.
- 24.8 Where the council assembly accepts that the decision is within the budgetary and policy framework it may either:
- a) endorse a decision or proposal of the decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the council assembly be minuted and circulated to all councillors in the normal way, or
 - b) if it objects to the decision on grounds other than it falling outside the budget or policy framework, refer the decision back to the decision making person or body, together with the council assembly's views on the decision. The decision maker will reconsider the decision within five clear working days and choose whether to amend the decision or not before reaching a final decision and implementing it, reporting this to overview and scrutiny committee.
- 24.9 Where the council assembly accepts that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget, it may either:
- a) amend the council's budget or policy framework to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the council assembly be minuted and circulated to all councillors in the normal way, or

- b) require the decision maker to reconsider the matter in accordance with the advice of either the monitoring officer or chief finance officer within five working days to reconsider/amend the decision and this will be reported to the overview and scrutiny committee.

ACCESS TO INFORMATION PROCEDURE RULES

Rules applying to all meetings of the council

1. APPLICATION OF RULES TO MEETINGS

Rules 1–11 apply to all meetings of the council assembly, overview and scrutiny committees and sub-committees, the standards committee, regulatory committees, community councils and meetings of the cabinet, and its committees (together called “meetings”).

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this constitution or the law.

3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions in these rules.

4. NOTICES OF MEETING

Subject to the rules relating to urgent decisions, the council will give at least five clear working days’ notice of any meeting by posting details of the meeting at ~~Southwark Town Hall~~ the council’s main offices and on the council website.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting.

If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda.

6. SUPPLY OF COPIES

The council will supply copies of:

- a) any agenda and reports which are open to public inspection
- b) any further statements or particulars necessary to indicate the nature of the items in the agenda

- c) copies of any other documents supplied to councillors in connection with an item if the proper officer thinks fit

to any person on payment of a charge for postage and any other costs.

7. ACCESS TO MINUTES AND PAPERS AFTER THE MEETING

The council will make available copies of the following for six years after a meeting:

- a) the minutes of the meeting or records of decisions made, together with reasons, for all meetings of the cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information
- b) the agenda for the meeting
- c) reports relating to items when the meeting was open to the public.

8. BACKGROUND PAPERS

8.1 List of background papers

The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- a) disclose any facts or matters on which the report or an important part of the report is based
- b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in rule 10) and in respect of cabinet reports, the advice of a political assistant.

8.2 Public inspection of background papers

The council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers. Background documents listed in reports to cabinet meetings will be available on the council's website at the same time the report is published.

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents is kept at and available to the public at the council's main offices.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential information: Requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.2 Meaning of confidential information

Confidential information means information given to the council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court order.

10.3 Exempt information: Discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

10.4 Meaning of exempt information

Exempt information means information falling within the following categories (subject to any qualifications):

1. information relating to any individual
2. information which is likely to reveal the identity of an individual
3. information relating to the financial or business affairs of any particular person (including the authority holding that information)
4. information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority
5. information in respect of which a claim to legal professional privilege could be maintained in legal proceedings
6. information which reveals that the authority proposes:
 - a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person
 - b) to make an order or direction under any enactment
7. information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime
- 7A. information which is subject to any obligation of confidentiality
- 7B. information which relates in any way to matters concerning national security
- 7C. the deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred

under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

Qualifications

8. Information falling within category 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:
 - a) the Companies Act 1985
 - b) the Friendly Societies Act 1974
 - c) the Friendly Societies Act 1992
 - d) the Industrial and Provident Societies Acts 1965 to 1978
 - e) the Building Societies Act 1986
 - f) the Charities Act 1993.

9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

10. Information which:
 - a) falls within any of categories 1 to 7 above
 - b) is not prevented from being exempt by virtue of categories 8 or 9 above

is exempt as long as the public interest in maintaining the exemption outweighs the public interest in disclosing it.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the proper officer thinks fit, the council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

Rules applying to the cabinet

12. APPLICATION OF RULES TO THE CABINET

Rules 13 – 19 apply to the cabinet and its committees. If the cabinet or its committees meet to take a key decision then it must also comply with rules 1 – 11 unless rule 17 (general exception), rule 18 (special urgency) or rule 19 (urgent implementation) apply.

~~If the cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with rules 1 – 11 unless rule 17 (general exception) or rule 18 (special urgency) or rule 19 (urgent implementation) apply. This requirement does not include meetings for which the sole purpose is to allow officers to brief members.~~

Cabinet or its committees may meet in public or private. Meetings of cabinet or its sub-committees must comply with rules 1-11 unless rule 17 (general exception) or rule 18 (special urgency) or rule 19 (urgent implementation) apply. If the public and press are excluded from all or part of a cabinet or its committee meetings under rule 10 this is classified as a private meeting and rule 13 applies.

A key decision is as defined in the protocol on key decisions set out in the appendix to these rules.

13. PROCEDURES PRIOR TO CLOSED MEETINGS

13.1 Notice of a closed meeting

Whilst the majority of the cabinet's business at the meetings listed in the forward plan will be open to the public to attend, there will inevitably be some business to be considered that contains, for example, confidential, commercially sensitive or personal information.

At least 28 clear days notice must be given if cabinet or its sub-committees intend to meet in closed session, for all or part of the meeting.¹ This notice must be given through the forward plan, including the reasons why the information is likely to be considered in closed session.

Representations

Any person may make a representation requesting, with reasons, that a particular report likely to be considered in closed session should be open to the public. A representation should be addressed to the council's proper constitutional officer.

Five day notice of a closed meeting

At least five clear working days before the closed meeting a further notice must be published again giving the reasons the meeting will be closed and details of any representations received. If the cabinet or its sub-committees still intend to hold all or part of the meeting in closed session this notice must contain the cabinet's response to any representations received.

13.2 Urgent closed meetings

Where it is impracticable to comply with procedure rule 13.1 and the meeting/decision is urgent and cannot be reasonably deferred the meeting or part of the meeting may be held closed if cabinet or its sub-committees have obtained agreement from the chair of the overview and scrutiny committee. If the chair of the overview and scrutiny is unable to act then the Mayor and in his/her absence the Deputy Mayor may act.

When agreement for the urgent closed meeting has been obtained cabinet or its sub-committees must publish a notice on the council's website setting out the reasons why the meeting is urgent and cannot be reasonably deferred.

¹ This is formal notice under The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

13. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET OR AN OFFICER

13.1 Reports intended to be taken into account

Where an individual decision maker ~~member of the cabinet~~ receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five clear working days after receipt of that report.

13.2 Provision of copies of reports to overview and scrutiny committees

On giving of such a report to an individual decision maker, the proper constitutional officer ~~person who prepared the report~~ will give a copy of it to the chair of overview and scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.

13.3 Record of individual decision

As soon as reasonably practicable after an cabinet decision has been taken by an individual member of the cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected.

The provisions of rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the cabinet. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

In the event that an officer takes an executive decision in accordance with regulation 13(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, he/she will prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The record of decision and any report considered by the officer and relevant to the decision recorded must be available for inspection by members of the public as soon as it is reasonably practicable at the offices of the authority and published on the council's website.

14. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to rule 17 (general exception) and rule 18 (special urgency), a key decision may not be taken unless:

- a) the matter is on the forward plan and 28 clear days notice of the decision has been given
- b) notice of the meeting has been given in accordance with rule 4 (notice of meetings) if the decision is to be taken at a meeting of the cabinet or its committees.

15. THE FORWARD PLAN

15.1 Period of forward plan

Forward plans will be prepared on behalf of the leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

15.2 Contents of forward plan

1. The forward plan will contain matters which the leader has reason to believe which will be the subject of a key decision to be taken by the cabinet, a committee of the cabinet, officers, community councils or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan.
2. It will describe the following particulars insofar as the information is available or might reasonably be obtained:
 - a) the matter in respect of which a decision is to be made
 - b) where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body, its name and details of membership
 - c) the date on which, or the period within which, the decision will be taken
 - d) the identity of the principal groups whom the decision maker proposes to consult before taking the decision
 - e) indicate if the business is open or closed and where the decision is exempt under rule 10 the reasons why it is exempt
 - ~~f) the means by which any such consultation is proposed to be undertaken~~
 - ~~g) the steps any person might take who wishes to make representations to the cabinet or decision maker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken~~
 - h) a list of the documents submitted to the decision maker for consideration in relation to the matter and the procedure for requesting details of those documents as they become available
3. Key decisions must be included in the forward plan, giving at least 28 clear working days' notice of the decision. The forward plan will be published at least 28 clear working days before the commencement of the next calendar month. ~~The forward plan must be published at least 14 days before the start of the period covered. The proper officer will publish once a year a notice in at least one newspaper circulating in the area, stating:~~
 - ~~a) that key decisions are to be taken on behalf of the council~~

- ~~b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis~~
- ~~c) that the plan will contain details of the key decisions to be made for the four month period following its publication~~
- ~~d) that each plan will be available for inspection at reasonable hours free of charge at the council's offices~~
- ~~e) that each plan will contain a list of the documents submitted to the decision makers for consideration in relation to the key decisions on the plan~~
- ~~f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available~~
- ~~g) that other documents may be submitted to decision makers~~
- ~~h) the procedure for requesting details of documents (if any) as they become available~~
- ~~i) the dates on each month in the following year on which each forward plan will be published and available to the public at the council's offices.~~

4. Exempt information need not be included in a forward plan and confidential information cannot be included.

16. URGENT DECISIONS – DEFINITIONS OF URGENCY AND STEPS THAT MUST BE FOLLOWED

There are four categories of urgent decisions:

- Rule 17 (General exception)
- Rule 18 (Special urgency)
- Rule 19 (Urgent implementation)
- Rule 20 (Urgent decisions outside the budget or policy framework).

The definitions and procedures to be followed are set out below.

17. GENERAL EXCEPTION

Definition

These are decisions which are likely to be key decisions and have not been included in the forward plan for the month that the decision will be taken.

This decision will be subject to call-in.

Procedure

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to rules 18 and 19 (special urgency and urgent implementation respectively), the decision may still be taken if:

- a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates
- b) the proper officer has informed the chair of the overview and scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made
- c) the proper officer has made copies of that notice available to the public at the offices of the council and on the council's website
- d) at least five clear working days have elapsed since the proper officer complied with a) and b).

Where such a decision is taken collectively it must be taken in public, subject to rule 10.4.

18. SPECIAL URGENCY

Definition

These are decisions that need to be taken within five clear working days; i.e. the requirements of rule 17 (general exception) on notice cannot be complied with. In these circumstances, the special urgency procedure should be used whether the decision had previously appeared on the forward plan or not.

This decision will be subject to call-in.

Procedure

If the date by which a decision must be taken means that rule 17 (general exception) cannot be followed, then the decision can only be taken if the decision maker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of the overview and scrutiny committee that the taking of the decision cannot be reasonably deferred.

If there is no chair of the overview and scrutiny committee, or if the chair of each relevant overview and scrutiny committee is unable to act, then the agreement of the Mayor of the council, or in his/her absence the Deputy Mayor will suffice.

In the event that special urgency provisions are used the proper officer must compile a notice setting out the reasons for special urgency and make that notice available for inspection at the council offices and on the council's website.

19. URGENT IMPLEMENTATION

Definition

These are decisions which, whether they have been included on the forward plan or not, need to be implemented immediately by virtue of the urgency of the actions that need to be taken.

This decision will not be subject to call-in.

Procedure

If a decision needs to be implemented immediately by virtue of the urgency of the actions that need to be taken, then the decision can only be taken if the decision maker (if an individual) or the chair of the body making the decision obtains the agreement of the chair of the overview and scrutiny committee both that the decision proposed is:

- a) reasonable in all circumstances
- b) to be treated as a matter of urgency.

If there is no chair or if the chair is unable to act, then the agreement of the vice-chair or in his/her absence any two members of the overview and scrutiny committee will suffice. In the situation where both chair and vice-chair are unable to act the whips of the two largest political groups on the overview and scrutiny committee shall nominate one member each.

In the event that urgent implementation provisions are used the proper officer must compile a notice setting out the reasons for special urgency and make that notice available for inspection at the council offices and on the council's website.

Note: Any requests for a key decision not to be called-in and communicated to the chair of overview and scrutiny committee should be copied to all overview and scrutiny committee members.

20. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

(See Rule 4, budget and policy framework procedure rules)

Definition

The cabinet, a committee of the cabinet, an individual member of the cabinet or officers, or joint arrangements discharging executive functions may take a decision which is contrary to the council's policy framework or contrary to or not wholly in accordance with the budget approved by council assembly if the decision is a matter of urgency.

This decision will not be subject to call-in.

Procedure

This type of decision may only be taken if the procedure set out in Rule 4, budget and policy framework procedure rules is followed.

21. REPORT TO COUNCIL

21.1 When an overview and scrutiny committee/sub-committee can require a report

If an overview and scrutiny committee/sub-committee thinks that a key decision has been made which was not:

- a) included in the forward plan
- b) the subject of the general exception procedure
- c) the subject of an agreement with the overview and scrutiny committee chair, or the Mayor or Deputy Mayor of the council under rules 18 and 19

the committee/sub-committee may require the cabinet to submit a report to the council assembly within such reasonable time as the committee/sub-committee specifies. The power to require a report rests with the committee/sub-committee, but is also delegated to the proper officer, who shall require such a report on behalf of the committee/sub-committee when so requested by the chair or any five members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee/sub-committee.

21.2 Cabinet's report to council

The cabinet will prepare a report for submission to the next available meeting of the council assembly. However, if the next meeting of the council assembly is within seven days of receipt of the written notice or the resolution of the committee/sub-committee then the report may be submitted to the meeting after that. The report to council assembly will set out particulars of the decision, the body making the decision, and if the leader is of the opinion that it was not a key decision the reasons for that opinion.

21.3 Quarterly Annual report on special urgency decisions

In any event the leader will submit ~~quarterly~~ an annual report to the council assembly on the executive ~~cabinet~~ decisions taken in the circumstances set out in rule 18 (special urgency) ~~in the preceding three months~~. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

22. RECORD OF DECISIONS

After any meeting of the cabinet or any of its committees, the proper officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

Rules applying to the overview and scrutiny committee

23. OVERVIEW AND SCRUTINY COMMITTEE/SUB-COMMITTEES' ACCESS TO DOCUMENTS

23.1 Rights to copies

Subject to rule 23.2 below, an overview and scrutiny committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the cabinet or its committees and which contains material relating to any business transacted at a meeting of the cabinet or its committees. This information will be provided as soon as reasonably practicable and in any case no later than 10 clear working days after the cabinet received the request.

23.2 Limit on rights

An overview and scrutiny committee/sub-committee will not be entitled to:

- a) any document that is in draft form
- b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise
- c) the advice of a political assistant.

Where the cabinet determines that a member of an overview and scrutiny committee/sub-committee is not be entitled to a document requested under this rule, it must provide the overview and scrutiny committee/sub-committee with a written statement setting out its reasons for that decision.

Rules applying to members

24 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

24.1 Material relating to the business of the cabinet

All members are entitled to inspect and documents in the possession or under the control of the cabinet and contains material relating to any business to be transacted at a public meeting. Any document requested under this rule must be available for inspection at least five clear working days before the meeting.

This rule does not require the document to be available for inspection if in the view of the proper officer it appears to disclose exempt information as set out in rule 10.4 or contains the advice of a political assistant.

24.2 Material relating to decisions

All members are entitled to inspect and documents in the possession or under the control of the cabinet and contains material relating to any business transacted at a private meeting, any decisions made by an individual member or any chief officer. Any document under this rule must be available for inspection when the meeting concludes or in the case of individual decisions immediately after the decisions has been made, and in any event within 24 hours of the conclusion of the meeting or the decision.

This rule does not required the document to be available for inspection if in the view of the proper officer it appears to disclose exempt information as set out in rule 10.4 or contains the advice of a political assistant.

24.1 Material relating to previous business of the cabinet

All members, provided that they can demonstrate a 'need to know', will be entitled to inspect any document which contains any material relating to any business transacted at a meeting of the cabinet or its committees and is in the control of the cabinet unless:

- a) it contains confidential or exempt information falling within paragraphs 1, 2, 3 (except where information is not exempt information by virtue of the qualification in paragraph 8), 4, 5 and 7 of the categories of exempt information
- b) it contains the advice of a political assistant.

24.2 Material relating to key decisions

All members of the council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the cabinet or its committees which relates to any key decision unless paragraph a) or b) above applies.

24.3 Nature of rights

These rights of a member are additional to any other right he/she may have.

24.4 Freedom of information

Members can make a request under freedom of information and should state as such in their request.

24.5 General right to inspect documents containing exempt information

All councillors have an automatic right to inspect documents containing information made exempt under categories 3 and 6 of the access to information procedure rules, except in the case of paragraph 3 if the document contains information relating to any terms proposed or to be proposed by the council in the course of negotiations for a contract, it will remain exempt and councillors will have no automatic right to inspect the document.

Information made exempt under paragraphs 1, 2, 3 (where this relates to information on any terms proposed or to be proposed to or by the council in the course of negotiations), 4, 5 and 7 are only automatically available to councillors on the committee to which the document relates. Requests for copies of these reports from other councillors can only be complied with if a 'need to know' is demonstrated and the proper officer is of the opinion that the public interest in disclosing the information outweighs the public interest in withholding it.

PROTOCOL ON KEY DECISIONS

Definitions of key decisions

There are two types of key decision:

1. Those which are above a general financial threshold

Key decisions are those which result in the authority incurring expenditure or savings of £500,000 or more.

Examples include:

- disposal of any council property with a value of £500,000 or more
- taking by the council of any interest in land with a value of £500,000 or more
- the granting of any interest in land worth £500,000 or more
- applications for funding from any external body which if successful would require match funding of £500,000 or more, or require revenue commitment of £500,000 or more
- the award of a contract worth £500,000 or more in any one year.

2. Those which have a significant impact on communities

Key decisions are those which are likely to be significant in terms of their impact on communities and specifically in one ward or more.

Examples include:

- closure or significant changes to the provision of any council service, school or education facility
- where there is evidence of significant local opposition to any proposals.

In considering whether a decision is likely to be significant, the decision maker is to consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the local amenity of the community or the quality of service provided to a significant number of people living or working in the locality affected.

In deciding whether a decision will have a significant impact on communities in one or more wards the following factors should be taken into account:

- the extent of the impact (i.e. how many people and wards will be affected)
- the likely views of those affected (i.e. is the decision likely to result in substantial public interest)
- whether the decision is likely to be a matter of political sensitivity
- where the decision may incur a significant social, economic or environmental risk
- where there is evidence of significant local opposition to any proposals

Where a decision is only likely to have a significant impact on a very small number of people in one ward, the decision maker should ensure those people are informed of the forthcoming decision in sufficient time to make an input into the decision making process. Ward councillors should also be

informed of the decision to be made. Officers should always be aware of the issues arising which might mean that a decision becomes a key one (for example, if input, even from a small number of those likely to be affected points to the decision being one which will have a much greater impact than was first apparent).

3. Decisions which should always be treated as key decisions

In addition there are other decisions which are deemed to be key decisions because of their significance and will be included in the forward plan. These are specifically:

- the setting of fees and charges
- the granting or withdrawing financial support to any external community or voluntary organisation in excess of £10,000 (this would not apply to those organisations from which the council commissions services)
- the writing off any bad debt in excess of £50,000 per case
- the disposal of any council property for less than best consideration
- the exercise of the council's compulsory purchase order powers
- the consideration of an inspection or reports by the Social Services Inspectorate, District Auditor, Office for Standards in Education, Children's Services and Skills (Ofsted) and the council's response to any such report
- the strategic procurement strategy approval decisions (Gateway 1 reports)
- reports on corporate budget monitoring and performance.

4. Guidance on determining if a decision is key or not

Where there is any doubt as to the financial value or the significance of the decision, it should be deemed to be a key decision and included in the forward plan.

CABINET PROCEDURE RULES

1. HOW THE CABINET OPERATES

1.1 Conflicts of interest

- a) Where the leader has a conflict of interest this should be dealt with as set out in the council's code of conduct for members in part 5 of this constitution.
- b) If every member of the cabinet has a conflict of interest this should be dealt with as set out in the council's code of conduct for members in part 5 of this constitution.
- c) If the exercise of an executive function has been delegated to a committee of the cabinet, an individual member of the cabinet or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made.

1.2 How decisions are to be taken by the cabinet

- a) Cabinet decisions which have been delegated to the cabinet as a whole will be taken at a meeting convened in accordance with the access to information rules in part 4 of the constitution and in accordance with the procedures in section 2 below.
- b) Where cabinet decisions are delegated to a committee of the cabinet, the rules applying to cabinet decisions taken by them shall be the same as those applying to those taken by the cabinet as a whole.
- c) Where cabinet decisions are delegated to individual members of the cabinet they will be taken in accordance with the procedures in section 3 below.
- d) Even where cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

2. HOW CABINET MEETINGS ARE CONDUCTED

2.1 Cabinet meetings – timing and location

The cabinet will meet at least ten times per year at times to be agreed by the leader. The cabinet meetings must take place in the borough.

2.2 Public or private meetings of the cabinet

Meetings of the cabinet shall be open to the press and public unless the business under consideration is exempt or confidential as defined in the access to information rules as set out in part 4 of this constitution. ~~There will be no private meetings of the cabinet. If a meeting or part of the meeting is~~

closed the procedures for a closed meeting, set out in the access to information rules in part 4 of the constitution must be followed.

2.3 Quorum

- a) The quorum for a meeting of the cabinet shall be one quarter of the total number of members of the cabinet or 3, whichever is larger, including the leader or deputy leader; except where the leader is unable to act or the office is vacant; and the deputy leader is unable to act or the office of deputy leader is vacant.
- b) The quorum for a meeting of a cabinet committee shall be one quarter of the total number of members of the cabinet on the committee or 3, whichever is larger.

2.4 Who presides

If the leader is present he/she will preside. In his/her absence, then the deputy leader shall chair the meeting. In the absence of the leader and deputy leader, a cabinet member shall be appointed to preside by those present. A committee of the cabinet shall be chaired by the leader and in his absence the vice-chair of the committee as appointed by the leader shall chair the meeting.

2.5 Who may attend

Members of the public may attend all meetings subject to the restrictions set out in the access to information rules in part 4 of this constitution.

2.6 Business

At each meeting of the cabinet the following business will be conducted:

- a) apologies for absence
- b) notification of urgent items, if any
- c) declarations of interest, if any
- d) public question time – 15 minutes
- e) minutes of the last meeting
- f) matters referred to the cabinet (whether by the overview and scrutiny committee or by the council assembly) for reconsideration by the cabinet in accordance with the provisions contained in the overview and scrutiny procedure rules or the budget and policy framework procedure rules set out in part 4 of this constitution
- g) consideration of reports from overview and scrutiny committees/sub-committees
- h) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the access to information procedure rules set out in part 4 of this constitution.

2.7 **Broadcasting And Recording**

Audio recording of the proceedings of a cabinet meeting by any member of the public, media or councillor shall be allowed. Photographing or filming of the proceedings of a council meeting by any member of the public, media or councillor shall only take place with the prior agreement of the chair. The chair will make an announcement at the beginning of the meeting on any arrangement agreed.

The chair has the discretion to terminate or suspend the recording or photograph or filming if, in the opinion of the Mayor, continuing to do so would prejudice the proceedings of the meeting.

The circumstances in which termination or suspension might occur could include:

- a) Public disturbance or suspension of the meeting
- b) Exclusion of public and press being moved and supported
- c) The Mayor, on advice of the monitoring officer, considering that continued recording/photograph/filming/webcasting might infringe the rights of any individual, and
- d) The Mayor, on advice of the monitoring officer, considering that a defamatory statement has been made.

2.8 **Consultation**

All reports to the cabinet from any member of the cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.9 **Who can put items on the cabinet agenda**

The leader will decide upon the schedule for the meetings of the cabinet. He/she may put on the agenda of any cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the cabinet, a committee of it or any officer in respect of that matter. The proper constitutional officer will comply with the leader's requests in this respect.

Any member of the cabinet may require the proper constitutional officer to make sure that an item is placed on the agenda of the next available meeting of the cabinet for consideration. If he/she receives such a request the proper constitutional officer will comply.

The proper constitutional officer will make sure that an item is placed on the agenda of the next available meeting of the cabinet where the overview and scrutiny committee or the full council have resolved that an item be considered by the cabinet.

Any member of the council may ask the leader to put an item on the agenda of a cabinet meeting for consideration, and if the leader agrees the item will

be considered at the next available meeting of the cabinet. The notice of the meeting will give the name of the councillor who asked for the item to be considered.

The monitoring officer and/or the chief finance officer may include an item for consideration on the agenda of a cabinet meeting and may require the proper constitutional officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the head of paid service, chief finance officer and monitoring officer are of the opinion that a meeting of the cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a cabinet meeting. If there is no meeting of the cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

2.10 Formal records to be maintained

No meeting of the cabinet shall commence or conduct business unless the monitoring officer or her/his representative is present. All meetings are to be clerked by a representative of the proper constitutional officer, with minutes to be produced including details of members attending each meeting and details of decisions taken. Copies of all agendas and minutes are to be maintained by the proper constitutional officer.

2.11 Public questions at cabinet meetings

1. The time during which public questions shall be taken shall not exceed 15 minutes.
2. A resident or business ratepayer of the borough may ask one written question (limited to 50 words) on any matter in relation to which the council have powers. The question must be received three clear working days in advance of the cabinet meeting by the proper constitutional officer.
3. Each question must provide the name and address of the questioner and name the cabinet member to whom the question should be put.

Scope of questions

4. The leader in consultation with the monitoring officer may reject a question if it:
 - a) is not about a matter for which the council has powers or duties or which affects Southwark
 - b) is defamatory, frivolous or offensive
 - c) is substantially the same as a question which has been put at a meeting of the cabinet in the past three months
 - d) requires the disclosure of confidential or exempt information
 - e) concerns a planning or licensing application

- f) raises a grievance for which there are other established processes for resolution
- g) relates to an investigation by (whether completed or not), or ruling of, the standards committee or sub-committee insofar as the question relates to the behaviour or conduct of an individual member or members.

Record of questions

- 5. The proper constitutional officer will maintain a record of each question which will be open to public inspection. Rejected questions will include reasons for rejection.

Asking the question at the meeting

- 6. The leader will invite the questioner to put the question to the member named in the notice.

Supplemental question

- 7. Any supplemental question will be at the discretion of the chair.

Written answers

- 8. Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

Late or urgent questions

- 9. To preserve the ability for public questions to take place in connection with late or urgent items added to the cabinet agenda after the normal deadlines for such questions, the leader or in his/her absence the deputy leader shall at the meeting have the discretion to decide whether or not accept a late and urgent public question.

2.12 Deputations to the cabinet

Who may request a deputation?

- 1. Deputations can only be made by a group of people resident or working in the borough.

Composition of deputation

- 2. The deputation shall consist of no more than six persons, including the spokesperson.

Scope of deputations

- 3. The chair in consultation with the monitoring officer may reject a deputation if it:
 - a) is a request from a group of people who have alternative means of expressing their views through recognised channels, e.g. employees of

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the authority or trade unions representing staff employed by the authority

- b) is not a matter for which the council has powers or duties or which affects Southwark
- c) is defamatory, frivolous or offensive
- d) requires the disclosure of confidential or exempt information
- e) concerns a planning or licensing application
- f) raises a grievance for which there are other established processes for resolution
- g) 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 the deputation

- 4. Each deputation request must provide the name and address of the persons/group requesting the deputation and a brief summary of the subject matter of their request.
- 5. Any written representations associated with a deputation should be submitted at the same time as the request for a deputation.

Deadlines

- 6. An application for a deputation to be heard shall be submitted by a representative of the deputation in writing to the proper constitutional officer no later than nine clear working days before the day of the cabinet meeting. The date and time of the receipt of such requests will be recorded.

Late or urgent deputations

- 7. To preserve the ability for deputations to take place in connection with late or urgent items added to the cabinet agenda after the normal deadline for deputations, the leader or in his/her absence the deputy leader shall at the meeting have the discretion to decide whether or not to accept a late and urgent deputation.

Agenda

- 8. Deputations shall be dealt with in the order in which they are received.
- 9. Subject to complying with the regulations herein, details of written deputations will be included on the agenda papers for the meeting of the cabinet.
- 10. If the matter is not dealt with by cabinet, the matter shall be referred without debate to the relevant cabinet member who shall, after consideration, respond with an open reply to the sender.

What happens at the meeting?

11. The proper constitutional officer shall report the request for the deputation to the cabinet. The meeting, without debate, shall decide whether:
 - a) the deputation be received at this meeting or a future meeting
 - b) the deputation not be received
 - c) the deputation be referred to the most appropriate committee/sub-committee/community council.

The proper constitutional officer shall arrange for the attendance of any deputation. In doing so he/she shall inform the applicants that the cabinet has discretion as to whether or not to receive the deputation.

Speech on behalf of deputation

12. Only one member of the deputation shall be allowed to address the cabinet, her or his speech being limited to five minutes.

Questions to the deputation and time limit

13. Members of the cabinet may ask questions of the deputation, which shall be answered by their spokesperson or any member of the deputation nominated by her or him for up to five minutes at the conclusion of the spokesperson's address.

No debate during deputation

14. Members shall not debate any issues arising out of the deputation, or the item to which it relates, with any members of the deputation.

Deputation to withdraw from the floor

15. As soon as the questions to the deputation have been concluded, the deputation shall withdraw and return to the public area where they may remain (subject to any resolution excluding the attendance of the public).

Debate, motion and amendments

16. If more than one deputation is to be heard in respect of one subject there shall be no debate until each deputation has been presented. At the conclusion of the deputation(s) the subject of the deputation shall be then open to debate by the cabinet. If the subject does not relate to a report on the agenda, members may move motions and amendments without prior notice.

Formal communication of the cabinet's decision

17. The proper constitutional officer shall, in writing, formally communicate the decision of the cabinet to the person who submitted the request for the deputation to be received.

Deputations concerning licensing or planning applications

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18. Deputations or representation received concerning licensing or planning applications will not be considered by cabinet. Any such representations received should be forwarded to the appropriate proper officer(s) for consideration as part of the formal consultation on such applications.

2.12 Petitions to the cabinet

This rule cannot be suspended.

Which meetings consider petitions?

1. Members of the public will be entitled to present petitions with 500 or more signatures to the chair at each meeting.

Deadline

2. The petition must be submitted to the proper constitutional officer at least 10 clear working days before the date of the meeting. A petition can be submitted by a person of any age who lives, works or studies in Southwark.

Scope

3. Petitions must relate to matters in which the council has powers or duties or which affects Southwark. Petitions shall not concern approval or otherwise of a planning or licensing application, or a statutory petition which is a petition allowed by other legislation. Petitions will also be disallowed where there is already an existing right of appeal or the petition is vexatious, abusive or otherwise inappropriate.

Procedure at meeting

4. The chair will call on the spokesperson to present petitions in the order in which they were notified to the proper constitutional officer.
5. The spokesperson presenting the petition may speak for up to five minutes on the subject matter and number of signatories contained within the petition. The cabinet will debate the petition for a period of up to 15 minutes. The cabinet may decide how to respond to the petition at this meeting. Receipt of the petition will be recorded in the minutes. The proper constitutional officer will arrange for a summary of any petition which addresses an issue within the direct responsibility of the council to be referred to the relevant cabinet member or chief officer.
6. The time during which petitions shall be considered shall not exceed 40 minutes.
7. The processes and procedures are set out in the council's petition scheme.

3. HOW INDIVIDUAL CABINET MEMBER DECISION MAKING IS CONDUCTED**3.1 Who takes the decision**

The individual cabinet member who is responsible for the portfolio area or to whom the decision is delegated shall take the decision, except in the following circumstances:

- a) the leader, or in his/her absence, deputy leader may take the decision if the relevant individual cabinet member is unavailable

- b) the relevant individual cabinet member may indicate that they wish the decision to be referred to a meeting of the full cabinet
- c) the leader or the chief executive may direct that the decision be reserved to a meeting of the full cabinet
- d) where an individual cabinet member has a disclosable pecuniary interest in the decision the matter shall be referred to the full cabinet
- e) where the decision affects more than one portfolio or is a crosscutting issue the matter shall be referred to the full cabinet.

3.2 Who may inspect documents

All reports for key individual cabinet member decisions shall be available for public inspection five clear working days prior to the decision, subject to the access to information rules in part 4 of this constitution.

3.3 Business

The relevant individual cabinet member shall consider a report setting out the recommendation, the justification for the decision, any options to be considered, details of the consultation and any representations received.

A decision sheet shall be sent to the individual cabinet member with the report. This will state the earliest date when the decision-taker can take the decision.

The decision-taker can discuss the report with relevant officers if required.

3.4 Consultation/representations

All reports to the individual cabinet member will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration. Any representations received must be forwarded to the decision maker for consideration.

Where a ward member submits representations, the relevant individual cabinet member should discuss the matter with the councillor prior to taking the decision.

3.5 Formal records to be maintained

The decision maker must complete and sign a decision sheet for each decision. The decision sheet has sections to be filled in giving the decision, date of the decision, reason for the decision, alternatives considered and any representations received by the individual decision maker.

All completed decision sheets must be forwarded to the proper constitutional officer. Copies of all reports and decision sheets are to be maintained by the proper constitutional officer.

3.6 Non-key decisions relating to contract standing orders

Rule 21 of the overview and scrutiny procedure rules in part 4 of this constitution will not apply to non-key decisions relating to contract standing orders.

3.7 All other decisions

All other decisions delegated to an individual in accordance with rule 1 above, will be subject to rule 21 of the overview and scrutiny procedure rules. The proper constitutional officer or his/her representative will circulate the decision to all members in accordance with the scrutiny call-in process (see paragraph 21 of the overview and scrutiny procedure rules).

4. HOW INDIVIDUAL OFFICER EXECUTIVE DECISION MAKING IS CONDUCTED

4.1 Who takes the decision

Part 3 of the constitution states that any executive function that is not specially delegated by the leader of the council to the cabinet or an individual cabinet member is deemed to be delegated to the appropriate chief officer in the relevant department. The relevant chief officer as the senior officer in each department will maintain an internal scheme of management setting out individual delegations to officers.

4.2 Business

The following executive decisions are to be recorded in accordance with regulation 13(4)¹ by officers:

- (1) Contract reports that are key decisions
- (2) Other key decisions taken by officers, including those decisions which should always be treated as key decisions as set out in the protocol on key decisions
- (3) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

4.3 Formal records to be maintained

1. The decision maker must complete and sign a decision sheet for each decision including the following information as set out below:
 - (a) a record of the decision including the date it was made;
 - (b) a record of the reasons for the decision;
 - (c) details of any alternative options considered and rejected by the officer when making the decision;
 - (d) a record of any conflict of interest declared by any cabinet member who is consulted by the officer which relates to the decision; and

¹ Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

- (e) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

All completed decision sheets must be forwarded to the proper constitutional officer. Copies of all reports and decision sheets are to be maintained by the proper constitutional officer.

4.4 Non-key decisions relating to contract standing orders

Rule 21 of the overview and scrutiny procedure rules in part 4 of this constitution will not apply to non-key decisions relating to contract standing orders.

4.5 All other decisions

All other decisions delegated to an individual officer in accordance with rule 4.1 and subject to recorded officer decision making in accordance with Regulation 13(4), will be subject to rule 21 of the overview and scrutiny procedure rules. The proper constitutional officer or his/her representative will circulate the decision to all members in accordance with the scrutiny call-in process (see paragraph 21 of the overview and scrutiny procedure rules).

MEMBER AND OFFICER PROTOCOL

Role and purpose

1. The purpose of this protocol is to set down principles and procedures, which have been jointly agreed by officers and members to guide their joint working in the public interest. The protocol supplements and interprets, but does not supplant:
 - statutory provisions, the code of conduct for members and other codes and guidance
 - the other provisions of the council's own adopted constitution and especially the rules of procedure
 - the disciplinary codes which regulate the conduct of officers, details of which can be found on the Source [[the council's intranet](#)] at: <http://thesource/SectionLandingPage.asp?id=2089>.
2. It contains interpretation and guidance on some of the issues which commonly arise. It cannot cover every matter which will arise in council life but it reflects an approach and sets standards which will serve as a guide to dealing with other issues. It is intended to guide new members and officers and explain to them what they can expect of each other. It also explains what to do when things go wrong.
3. This protocol also applies to voting non-elected members of committees and also to consultants and agency staff working for the council, to whom a copy should be supplied. With regard to associates from partnership organisations, where their organisation has no code of conduct, it is expected they will abide by the principles of Southwark's code and this protocol.
4. Members appointed to outside bodies or partnership organisations as representatives of Southwark Council need to be aware that the code of conduct for members will apply to these appointments. However, members are advised to be aware that other conduct arrangements of the outside body are likely to exist. In those circumstances, members should comply with both sets of conduct arrangements, unless the code of conduct for members conflicts with the lawful obligations of the outside body. Further assistance is given in the *guidance for councillors on membership of outside bodies* issued by the monitoring officer.

Review

5. The standards committee and the monitoring officer will jointly keep the protocol under review and make recommendations for changes as appropriate. Review will take place in time for an updated version to be circulated annually after annual council with the new constitution, to all members and officers.

Definition of the role of officers and members

6. Both councillors and officers are servants of the public and they are indispensable to one another but their responsibilities are distinct.

Members

7. Councillors are responsible to the electorate and serve only so long as their term of office lasts. All councillors have responsibilities to determine the policy of the council, monitor its performance, represent the council externally and act as advocates on behalf of their constituents. Cabinet members, chair and vice-chairs of scrutiny and other committees may also have additional responsibilities. However, all councillors have the same rights and obligations in their relationship with officers and should be treated equally.

Officers

8. Officers are responsible to the council. Their job is to give full and impartial advice to councillors and the council, and to carry out the council's work under the direction and control of the council, its cabinet, committees and sub-committees. Within these guidelines all officers should endeavour to give every assistance to members carrying out their various roles. Officers have a duty to keep members of all political groups fully informed about developments of significance in relation to council activities.

Member officer relations

9. One of the key issues addressed by the member and officer protocol is the question of member officer relations. Mutual trust and respect should be the key aim of both members and officers, as it is essential for good local government.

Obtaining or granting favours

10. The member code of conduct emphasises the need for members to avoid behaviour which could be viewed as conferring an advantage or disadvantage on an officer. Members should not seek personal favours from officers. Officers should not be tempted to give favours to please a councillor. An example of favour seeking would be asking whether a councillor's parking ticket could be withdrawn or whether an application for a service could be expedited. Similarly officers should not seek to circumvent agreed staff consultative procedures by lobbying councillors on matters which directly concern them as employees.

Member involvement in officer issues

11. Issues relating to the appointment, management and dismissal of most officers are reserved by law to the chief executive and officers appointed by him/her. Member involvement in employment issues generally, including where they relate to senior officers is set out in the Local Authorities (Standing Orders) (England) Regulations 2001 and within the council's constitution.
12. Where an employee is also a constituent it may be proper for the member to make written/oral representations to the relevant chief officer, or disciplinary hearing, but the member should not take a proactive part representing or in any

other way advocating on behalf of any such employee in any disciplinary procedures brought by the council against the employee.

Personal familiarity

13. Personal familiarity between members and officers can undermine public confidence in the council. It is acknowledged that some close relationships will inevitably develop, particularly when officers and cabinet members or chairs of committees work closely together. It is important that close relationships between members and officers are openly declared and should never be allowed to become so close, or appear to be so close as to bring into question the officer's ability to deal impartially with other members and other party groups, nor to undermine public trust and confidence in the council. Where possible members and officers who have close personal relationships should try to avoid coming into contact on projects and in the day-to-day business of the council.

Courtesy

14. Members and officers should be courteous to each other at all times even if they disagree strongly with each others' views.

Bullying

15. Members and officers must not bully any person. Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person whom the member or officer has some actual or perceived influence over.
16. Bad relations between members and officers can be equally destructive to good governance. Members may from time to time become frustrated by what they regard as unacceptable or incompetent officer behaviour. It is self-evident that sometimes these feelings may be entirely justified although sometimes there may be a legitimate reason why member expectations cannot be met, e.g. because of a council policy or a legal requirement such as confidentiality.
17. However, members should take up their concerns through the dispute procedure described in this document [paragraphs 82 onwards], rather than through public criticism. They should bear in mind that officers are instructed not to "answer back" in public. Attacking an officer's conduct in public can constitute bullying, as can undue pressure brought by either officers or members in private.

Lines of contact between members and officers

18. It must be remembered that officers within a department are accountable to their chief officer. Chief officers through their senior management are responsible for the allocation of work to, and the prioritising of work by, their staff.
19. Members should direct enquiries to staff through senior management, or if the matter is routine at least keep a senior manager informed by copying the manager in on correspondence or emails.

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20. Officers should not leave confidential or sensitive information visible on their workstation or in other areas and should lock them away if they have to leave that area for any reason.
21. Where members and officers share an office building particular care needs to be taken to maintain appropriate lines of contact. Members and officers are reminded that within an open plan environment office certain standards are expected to be maintained. In particular meetings should not be held at workstations, members and officers should use the meeting facilities provided and sensitive or confidential issues should not be discussed in the open plan environment. Further details of the standards can be found on the intranet.
22. Officers should always seek to assist members but in so doing they must not go beyond the bounds of whatever authority they have been given by their chief officer under the scheme of management.

Registration of disclosable pecuniary interests*Notification of disclosable pecuniary interests*

23. Within 28 days of becoming a member or co-opted member, the member must notify the monitoring officer of any 'disclosable pecuniary interests'.
24. What is a 'disclosable pecuniary interest' is detailed in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. The monitoring officer has provided guidance and will give advice should members require it.
25. A 'disclosable pecuniary interest' is an interest of the member or their partner (which means spouse or civil partner, a person with whom the member is living as husband or wife, or a person with whom the member is living as if they are civil partners).

Register of interests

26. Any interests notified to the monitoring officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the council's website.

Sensitive interests

27. Where the member considers that disclosure of the details of a disclosable pecuniary interest entered in the register could lead to the member, or a person connected with the member, being subject to violence or intimidation, and the monitoring officer agrees, then copies of the register that are made available for inspection and any published version of the register will not include details of the interest, but may state that the member has a disclosable pecuniary interest, the details of which are withheld under Section 32 of the Localism Act 2011.

Disclosable pecuniary interest in matters considered at meetings

28. If the member is present at a meeting of the council assembly, or any committee, sub-committee, joint committee or joint sub-committee of the council, or any meeting of the cabinet or a committee of the cabinet, and they

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are aware they have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,

- They may not participate in any discussion of the matter at the meeting
 - They may not participate in any vote taken on the matter at the meeting
 - If the interest is not registered, the member must disclose the interest to the meeting
 - If the interest is not registered and is not the subject of a pending notification, the member must notify the monitoring officer of the interest within 28 days.
29. Members who have a disclosable pecuniary interest in any matter to be considered or being considered at any meeting or by an individual cabinet member must not seek improperly to influence a decision about that business.
30. Where a cabinet member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the cabinet member must notify the monitoring officer of the interest within 28 days and must not take any steps or further steps in the matter.

Dispensations

31. The monitoring officer may grant any member a dispensation, but only in limited circumstances, to enable ~~you~~ the member to participate and vote on a matter in which ~~you~~ the member ~~have~~ has a disclosable pecuniary interest.

Gifts and hospitality

32. Members should not compromise their position by accepting any gifts or hospitality which may give the impression that they might be, or might be thought by others to have been, influenced in making an important decision as a consequence.
33. Member must register any gifts or hospitality given to them or to their partner (as defined in paragraph 25) if given to them directly worth £50 or over. A copy of the register will be available for public inspection and will be published on the council's website.
34. Members must also register what the gift is, the donor (the person, company or body) of the gift or hospitality; the date of the gift, and the value. Members only have to register gifts that are receive in connection with their official duties as a member. Members do not have to register other gifts and hospitality, such as birthday gifts from family.

Visits to offices by members

35. In relation to visits to front-line services by members, members [except when accessing services as a resident of the borough] should ~~consider advising~~ always advise the relevant chief officers in advance of such visits. ~~In the case of unannounced visits to front-line services, members should take care not to disrupt organisations unreasonably.~~ If the visit is of a statutory inspection nature other procedures apply.

36. Making an agreed time to meet with an officer is a better way of working than arriving at an officer's desk. Managers will have agreed work priorities with staff.
37. Members are advised that they carry some personal responsibilities to ensure health and safety standards are maintained at all times while on council premises and also for their private guests. Members are advised that their private guests also have personal responsibilities regarding health and safety.

Reports

38. Officers' reports should contain clear, evidence-based advice as to why a course of action is being recommended. From time to time corporate advice is given to officers on report writing and they should take care to follow it. The report should lay out all relevant factors for the decision maker, and examine all alternatives in an even handed way. Officers should take care to include even unpopular options if they feel they are relevant.
39. Members can refuse to agree recommendations and table amendments to any recommendations. The member should be clear about the reasons for making alternative recommendations, and any amendments or recommendations proposed at a meeting should have a clear and rational basis, which is accessible to the public.
40. With cabinet reports the report writer should consult with the relevant cabinet member(s). That member is able to write his or her report in addition to the report submitted by the chief officer.
41. Where there is disagreement about the right course of action, it is always best practice for this to be open with both opinions available for discussion. Sometimes, in the course of preparing reports, these disagreements can be reconciled. However, it is always poor practice to bring pressure to bear on officers unwilling to amend their professional judgement, and in some cases this could be construed as bullying.
42. In relation to action between meetings, it is important to remember that the law only allows for decisions (relating to the discharge of any of the council's functions) to be taken by the cabinet, a cabinet member, a committee, a sub-committee or an officer. It is however both legal and good practice for cabinet members individually and as a whole, and chairs of committees to be briefed by officers in advance of meetings and also to meet to plan agendas for meetings.

Officer advice to party groups

43. There is ~~now~~ a statutory recognition for party groups and it is common for such groups to give preliminary consideration to matters of council business in advance of such matters being considered by the relevant decision making body. The opposition groups may seek support to enable them to function as an effective opposition on the bodies on which they sit.
44. Officers may properly be called upon to support and contribute to such deliberations by party groups, provided they maintain a stance which is politically impartial. Officers should be required to give information and advice to political groups on matters relating to the council's functions only and not on matters which are primarily issues of party politics or political strategy. It is

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important that the political neutrality of officers is preserved. When engaging council officers at group meetings, party members should seek to avoid involving them in any political debate. With the exception of political assistants, officers should not attend, or be invited to attend, any political group meeting which includes non-council members.

45. Attendance at group meetings should normally be restricted to chief officers. If other officers are required this should be organised by the chief officer.
46. These briefings are confidential, to allow the free expression of views, and officers must be careful to maintain confidentiality. However, any written report supplied to a party political group must be accessible to members of other parties.

Support services for members

47. The role of officers is to assist members in discharging their role as members of the council for council business and in their role as advocates for local communities. Officers should not be used in connection with party political campaigning or for private purposes, and this includes the support offered by political assistants.
48. Council resources (e.g. stationery and photocopying) may only be used for council business or when they are directly required for any office to which the member has been elected or appointed by the council.
49. Support to members is a resource, which is subject to the same budget pressures as any other. Given its importance to how effective members can be, it is essential that its allocation is agreed to be fair and in proportion to the duties of all groups of members.
50. Direct support and administrative help is provided by member services. Information technology support and training responsibilities are shared between a number of sections but are co-ordinated ~~managed~~ through the member services section manager. From time to time training and guidelines on the proper and effective use of council supplied IT resources will be issued. Requests for further assistance or clarification should be referred in the first instance to the proper constitutional officer ~~member services manager~~.
51. Use of council resources includes the use of council owned facilities. Outside of council meetings, political groups represented on the council may use meeting rooms at 160 Tooley Street for private meetings of their group which will include ordinary group meetings and training sessions under the standard room booking arrangements. The council's ~~new offices at~~ at in Queens Road ~~will~~ are also be available for these purposes ~~once the building is open. In the interim, facilities are available at Cator Street. These will be withdrawn when Queens Road is commissioned.~~ Other council owned function rooms can be hired under the council's normal conditions of charging for other types of meetings.
52. During the published normal business hours, elected members may also book meeting rooms at Tooley Street and Queens Road via member services for meetings with constituents. Any meeting outside of normal hours, or that attract special facilities or security requirements, will be chargeable. Members should discuss these matters in the first instance with member services. This facility is

subject to availability and the normal booking constraints of rooms, including the priority given to official council and committee meetings and does not extend to open and public meetings as these require risk assessment and proper arrangements to be in place.

53. Where an officer is present at a meeting involving members, the officer should always lead on making the room booking arrangements.

Member development programme

54. The council runs a member development scheme which is coordinated through the organisational development team. The scheme reflects the obligation on all parts of the council to ensure that all members are able to achieve their full potential in the position to which they have been elected. When this is achieved it benefits the council as a whole and the people of the borough but it also improves the mutual understanding of members and officers.
55. Further advice on support for members can be obtained from member services.

Use of Information Technology

56. Where a member is using or accessing the council's resources, s/he must act in accordance with the council's requirements and ensure such resources are not used for any unauthorised or political purpose. This includes information technology (IT) resources; the term 'IT', means computers and any systems used to create, store, print or exchange information electronically. Similarly 'computer' means an electronic device used for storing and processing information, such as desktop and notebook computers (laptops) and hand held devices (such as BlackBerrys).
57. Members must not use any computer equipment and systems supplied by the council to conduct any business activity other than for their role as a councillor.

Using and caring for equipment

58. Members have a personal responsibility for any IT equipment supplied to them by the council and should take all reasonable steps to ensure that this equipment is kept safe and in good working order. Members should report any loss/theft to member services, but should note that only one issue and one upgrade will be paid for by the council in any 4-year term of office. Members should report any technical problems, lack of service etc. to the council's contractor.
59. Members are advised to consider adding council issued equipment to their home insurance arrangements. Members will be able to claim any additional related premium from the council.
60. A restricted level of personal use of the equipment is permitted provided it does not constitute misuse as detailed in the communication protocol. Members will need to:
 1. reimburse the council for any personal use of equipment that incurs a cost to the council or;
 2. confirm that all costs were associated with official council business.

Members will also be responsible for any use of equipment, authorised by them or not (unless reported lost or stolen), and hence any associated costs.

61. Members are reminded that details of expenses paid on their behalf are published on the Southwark website.
62. IT equipment supplied to members remains the property of the council and must be returned when their period of office ends. In addition, members may be asked to return the equipment for servicing.

Political assistants

63. The Local Government and Housing Act 1989 gives councils a power to appoint political assistants to qualifying political groups. Southwark Council currently employs political assistants to the two largest groups. Political assistants are council officers who are employed to assist members of a political group, "in the discharge of any of their functions as members of a relevant authority". Unlike other officer appointments, the political affiliations and preferences of the political group for whom the assistant is hired can be taken into account in the selection process. They provide a useful means of broadening the base of advice to members.
64. The act also restricts the work that political assistants can do. A political assistant's role is to provide assistance to members in carrying out their duties as members of the authority, and not in any additional political, or other, activity. For example, political assistants are not employed to work on election campaigns. Political assistants hold politically restricted posts under the Local Government and Housing Act 1989, and therefore also face restrictions on their personal political activity.

Members' access to information and council documents and data information

65. Members often require access to information to carry out their work in decision making, scrutiny, and representing their constituents. Officers should always process such requests promptly. They are required to ensure that the information required can be released. In some cases they will need to consult their managers or third parties who may hold the information, which may cause some delay.
66. The process for obtaining information is set out in the access to information rules in the council's constitution. Advice on the legal framework can be obtained from the monitoring officer.
67. The common law right of members is based on the principle that any member has a prima facie right to inspect council documents so far as his/her access to the documents is reasonably necessary to enable the member properly to perform their duties as a member of the council. This principle is commonly referred to as the "need to know" principle and it is well established that a member has no right to "a roving commission" to go and examine documents of the council. The crucial question is the determination of the "need to know" and this question must initially be determined by the particular chief officer whose department holds the document in question (with advice from the monitoring officer).

68. In some circumstances (e.g. a cabinet or scrutiny committee/sub-committee member wishing to inspect documents relating to the functions of their portfolio/committee/sub-committee) a member's "need to know" will normally be presumed, and also where the member is representing a constituent within his ward, although in these cases there may be legal reasons restricting the information that can be produced. In other circumstances (e.g. a member wishing to inspect documents which contain personal information about third parties) a member will normally be expected to justify the request in specific terms in writing.
69. Guidance on holding and processing data to comply with the Data Protection Act can be found on the Source [\[the council's intranet\]](#). Registration is coordinated by member services, but members should be aware that they are personally responsible under the act, and should take care to follow any guidance issued.

Confidentiality

70. Sometimes information will be supplied in confidence and paragraph 4 of the Southwark Council's code of conduct for members makes it clear that such information should not be disclosed without the consent of a person authorised to give it, or unless he or she is required by law to do so.
71. Recent case law confirms that a member may benefit from the public interest defence in some specific circumstances. However, those circumstances are rare and any member considering leaking confidential information should take legal advice immediately where their actions may impact on them as individuals.
72. Members are also reminded that there is an agreed process for applying for the release of information contained in the Freedom of Information Act 2000. Further details of this are available on the council's website

Freedom of Information Act 2000

73. Under the Freedom of Information Act (FOI), councillors like other members of the public have a general right, subject to any applicable exemption, of access to information. Requests under the Freedom of Information Act must be in writing and contain sufficient information to enable the document to be identified. There is a requirement under the act ~~that~~ for the information to be disclosed within 20 working days.
74. There is no requirement under the act for the member to specify whether or not the information is requested under the Freedom of Information Act. Officers should therefore in all cases ascertain from the member whether or not the information is sought under the Freedom of Information Act and if so to advise the member that the request will be dealt with within the statutory time limit of 20 working days.
75. Where the request is for access to documents that are unrelated to any council meeting or where the member requesting the information is not the ward member, officers must inform the member that the request is being treated as a freedom of information request and that a response will be provided within 20 working days.

Operation of the overview & scrutiny committee and its sub-committees

76. The overview & scrutiny committee and its sub-committees may require officers and members to attend and provide any information required to answer questions. It is the duty of any officer or member to attend and answer questions (other than those which he or she would be entitled to refuse to answer in a court of law) if the overview & scrutiny committee and its sub-committees so request. The council may consider that chief officers and other senior managers as described in the departmental schemes of management and not more junior staff are the appropriate officers to attend scrutiny meetings and answer questions.
77. Members of the overview & scrutiny committee or one of its sub-committees should explain the role and operation of the committee/sub-committee, particularly in relation to future policy development, before asking questions of witnesses. Members should adopt an inquisitorial (information seeking) approach to questioning rather than a confrontational one. They may be firm and assertive, but adopting a facilitative and exploratory way of working should generate an atmosphere in which members and officers can explore issues openly and honestly. Under no circumstance should members adopt a rude or aggressive style.
78. Officers should provide all relevant information in their possession, and they should use their best efforts to make sure that they possess all relevant information. They should never seek to conceal or 'improve' inconvenient facts, and more senior officers, or other members should never attempt to persuade them to do so.
79. Reports of scrutiny committees, while drafted by officers, are the reports of the committees themselves and there is nothing improper in members of those committees asking for draft reports to be amended.

Ceremonial events

80. Civic ceremonial events will normally be led by the Mayor or the Deputy Mayor with the leaders of all political groups and other local members informed or invited as appropriate.

When things go wrong

Procedure for officers

81. It is always preferable to resolve matters informally, through an appropriate senior manager. Officers however do have recourse to the [procedure for individual employee complaints](#) ~~staff complaints procedure~~ (which can be found on the Source ~~is contained in Managing@Southwark~~) ~~[the council's intranet]~~, the protections laid down in the officer employment procedure rules (contained in part 4 of the constitution) or to the council's monitoring officer. In [appropriate](#) ~~some~~ cases they may wish to utilise the council's whistleblowing procedure (again contained [on the Source](#) ~~[the council's intranet]~~ ~~in Managing@Southwark~~). In the event of a complaint being upheld, the matter will be referred to the chief executive. A local solution may be found after discussion with the leader of the council and the leader and/or whip of the group concerned. The advice of the monitoring officer should be sought.

Procedure for councillors

82. Where a councillor is dissatisfied with the conduct of an officer, and they have been unable to resolve the issue, they should refer the matter to the officer's relevant chief officer, who will nominate an appropriate manager to carry out any investigation required. The manager should then make a preliminary investigation and consider whether the council's disciplinary and capability procedure is appropriate, and then follow the appropriate procedure. The manager should then report back to the member concerned that the appropriate procedures have been followed.
83. Where the complaint relates to a chief officer or monitoring officer, the complaint may be referred to the chief executive for an informal review, conciliation and resolution where possible. If the matter is not resolved at this preliminary stage or in cases of serious complaints, the chief executive, taking appropriate advice will consider whether any formal process under the council's employment procedures and as set out in the officer employment procedure rules, as appropriate.
84. Where a complaint relates to the chief executive both the member concerned and the chief executive should consider whether a meeting may resolve the situation and whether that could be facilitated by the whip or leader of the relevant political group, if any, attending. The chief executive will provide the member with a written response to their complaint.
85. If the member remains dissatisfied with the response of the chief executive he or she will notify the monitoring officer and the head of human resources in writing and they will prepare a report for consideration by the leader of the council. The leader of the council, taking advice as appropriate, will have regard as to whether a formal process, as set out in the Local Authorities (Standing Orders)(England) 2001 is appropriate.

Standards committee

86. The function of the standards committee is set out in the council's constitution. It has a role in offering guidance on the content and working of this protocol, although it will not arbitrate, except in considering cases relating to potential breaches of the code of conduct for members.

COMMUNICATION PROTOCOL

Scope of the protocol

1. This protocol applies to all publicity issued or produced and paid for out of the council's resources.
2. The protocol also applies to any other material issued by organisations that are either wholly or partly separate from the council but which use council's grants or other funding from the council to produce the publicity.

The legal framework

3. When publishing any material at any time, a local authority must comply with the provisions of the Local Government Act 1986 (the act) and the Code of Recommended Practice on Local Authority Publicity 2011 (the code) which was revised on 31 March 2011. Section 2 of the act states as follows:
 - (1) A local authority shall not publish (or assist others to publish) any material, which in whole or in part is designed to affect public support for a political party
 - (2) In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of the publication and the likely effect on those to whom it is directed and in particular the following matters:
 - a) whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the views of one political party and not of another
 - b) where the material is part of a campaign, the effect that the campaign appears to be designed to achieve.
4. Section 6 of the act defines publicity as "any communication in whatever form, addressed to the public at large or to a section of the public".
5. The key points to note from the above section and the code are that publicity by local authorities should:
 - (1) be lawful
 - (2) be cost-effective
 - Consideration needs to be given to achieving value for money and to what is the most appropriate publicity in each case.
 - The code requires that where central government publicity has been issued on a matter, local authorities should not incur expenditure on publicity on the same matter unless they consider additional value is added, i.e. by giving a local context to national issues.
 - Local authorities should consider whether to take advice before embarking on a publicity campaign involving very large expenditure.
 - (3) be objective

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- Where publicity is used to comment on, or respond to the policies and proposals of central government, or other local councils, the comments or response should be balanced and factually accurate and should avoid anything likely to be perceived by readers as constituting a political statement.
 - Any publicity describing council policies and aims should be as objective as possible, concentrating on facts or explanations or both.
 - Local authorities should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.
- (4) be even-handed
- Where local authority publicity addresses matters of political controversy it should seek to present the different positions in question in a fair manner.
 - Except where a period of heightened sensitivity exists (i.e. purdah), it is acceptable for local authorities to publicise the work done by individual members of the council, even if those views do not reflect the views of the local authority itself, although such publicity should make this fact clear.
 - It is acceptable for local authorities to host publicity prepared by third parties such as blogs and with links to external sites, although those may need to be disabled during a period of heightened sensitivity.
 - It is acceptable for publicity prepared by third parties and hosted by local authorities to include a logo associated with a political party or particular member of the authority such as the leader, but publicity material relating to a particular member must not seek to affect public support for that individual.
- (5) be appropriate
- Local authorities should not incur any expenditure in retaining the services of lobbyists in order to publish material designed to influence public officials, MPs or the government.
 - Publicity about local authorities and services should be freely available in accessible formats.
 - Local authority publicity should clearly identify itself as a product of the local authority.
- (6) have regard to equality and diversity
- Publicity may seek to influence attitudes on health, safety, crime prevention, equality, diversity and community issues.
- (7) be issued with care during periods of heightened sensitivity
- Particularly regard needs to be paid before elections and referendums, when the general rule is that no publicity should be issued which seeks to influence voters.
- (8) When deciding whether publicity may fall foul of the act and the code, the council should consider
- the content and style of the materials
 - the timing and circumstances of the materials
 - the likely effect on those to whom it is addressed
 - whether it refers to a political party or politician

- whether it advocates a particular view that can be easily identified with a political party
- if it is part of a campaign, the effect that campaign is designed to achieve.

Publicity of individual councillors

6. Publicity about councillors may include their contact details, their political affiliation, the position they hold with the council and their responsibilities.
7. Publicity may include information about individual councillor's proposals, decisions and recommendations where this is relevant to their position and responsibilities within the council. Publicity of individual councillors should avoid personalisation of issues or personal image making.

Ward member of the council

8. Ward councillors will be invited to attend public meetings and events organised by the council to consider a local issue and will also be kept informed of consultative exercises on local issues. Some events will involve some members in formal roles, i.e. take part in photo opportunities, make presentations or officially address an audience and members will be advised of what those formal roles are and who is involved in those at the time of invitation.
9. Nothing in this protocol shall prevent the normal publication of the details of members' surgeries on-line, in hard copy or in advertisements.

Official visits by government and shadow ministers

10. It is open to government and shadow ministers to visit the borough at any time. However should the minister require assistance or access to any of the council's services or facilities, the visit will need to be arranged through official channels of the council. This will ensure that appropriate support is provided on the day.
11. To this end all such requests from government and shadow ministers must be referred to the head of communications who will promptly notify the chief executive of the request.
12. The head of communications will liaise with their counterpart at the relevant government department to ascertain the purpose of the visit. The head of communications in consultation with the chief executive and monitoring officer will authorise the visit if satisfied that the visit would assist the council in promoting one or more of its policies and or objectives or would be purely for fact finding.
13. Events which involve government ministers or other political figures and shadow ministers should usually be led by the leader or cabinet member with the Mayor informed or invited to lead as appropriate. Ward councillors and leaders of all the political parties should be invited where possible and appropriate.

Visits by local and other Members of Parliament (MPs)

14. There may be instances where local and other MPs who are not ministers will have a special interest in attending an event that is taking place in the borough. In this instance the MP in question may either be formally invited or merely informed about the event. Where the MP has not been specifically invited to attend, he or she should not expect to be treated as an “official” invitee.

Promotional publicity

15. Local authorities are authorised under the Local Government Act 1972 to publicise information as to the services provided by them or other local authorities in their area. Publicity can also be used to explain or justify the council’s policies either in general, such as in the annual report, or on specific topics, for example as a background to consultation. However, any such publicity should comply with the principles of the code.

Publicity of matters going before the cabinet, council assembly or any committee of the council

16. All matters going before the cabinet or committees for decision are publicised five clear working days before the meeting or seven clear working days in the case of council assembly unless the report contains exempt information (i.e. information that has been judged by the proper officer as confidential). Some matters will obviously generate more press interest than others. Where the press is interested in a matter that is to be the subject of a decision by the council, the head of communications in conjunction with the relevant chief officer and cabinet member may issue a press release explaining the reasons behind the recommendations. Any such press release must be factual and objective. Members may be asked by the media to comment on this press release but should remember that whilst criticism of ideas and opinion is part of the democratic process, a member must comply with the code of conduct.
17. Where there has been misinformation about any of the council’s policies or objectives the head of communications is authorised to take any appropriate corrective measures.

Scrutiny

18. Publicity about scrutiny will concentrate on factual information about which scrutiny exercises the council is conducting, who is involved, the process they will follow and the decisions they take. Where scrutiny suggests a course of action that differs to or challenges one agreed by the cabinet or any other council decision making body, this would be made clear in publicity together with the process for resolving the difference.

Contact with press

19. As outlined in the code of conduct for employees, employees and other staff should not communicate with press and other media unless authorised by the appropriate manager to do so.

Press releases

20. All press releases from the council must be agreed and signed off by the communications unit and issued either electronically or on council headed paper. Press releases containing quotes from members must be agreed and signed off by the appropriate member.

Social media

21. It is acceptable for the council to host social media, such as a blog, which itself contains links to external sites where the content would not itself comply with the code. However care needs to be exercised in that such links do not:
 - contain content that may result in actions for libel, defamation or other claims for damages
 - be used to process personal data other than for the purpose stated at the time of capture
 - be used in an abusive, hateful or disrespectful manner.
22. However particular care must be taken during the period before elections and referendums to ensure that no breach of any legal restriction takes place. It may be necessary to suspend the hosting of material produced by third parties or public forums during such periods.
23. In addition, where members are present as voting members at any meeting where they are determining any application for any approval, consent, licence, permit or permission, they should not access the internet, send or receive emails, text, messages or tweets concerning the business of that committee.

Publicity during periods of heightened sensitivity

24. Candidates in an election or referendum should not be provided with any form of publicity during the period between the notice of an election and the election itself.
25. Any publicity should be objective, factual, not deal with controversial political issues and avoid personalisation of the issues or inappropriate personal image making.
26. The council should not produce publicity designed to influence the views of local people on petitions, referendums or specific proposals.

The role of the communications unit

27. The communications unit works on behalf of the council and not for any political party. The purpose of its work is to provide high quality information about the council, its policies and its services and to maintain public confidence and where appropriate to protect and to promote the council's reputation. It aims to encourage better relationships with the local community. It is important to remember that all publicity and press releases are directed through the communications unit so these goals can be achieved.
28. The head of communications can advise members on how to deal with press enquiries, and how to arrange publicity for events, which can be properly

publicised. Members have a remit to discover and make public inefficiency and poor public service; however, they should be careful where a matter they wish to make public relates to identifiable officers.

29. Publicity and information will cover areas such as why the council makes the decisions it does, and why other proposals are rejected. The communications unit will feature the decisions of the council, i.e. those decisions made by the council assembly, cabinet, scrutiny, planning or licensing committees or community councils, or those actions which have been taken within the broad policy framework already set by the council, subject to any call-in arrangements.

Obligations on officers in relation to documents being prepared for public consumption

30. Council staff and resources must not be used to arrange proactive events, such as photocalls, if they would provide politicians with a platform to communicate with the public that would not otherwise be available to them.
31. When considering whether a communication or publicity is safe to be put out officers should ask themselves whether the communication or publicity is objective, balanced, informative and accurate. If the answer is an unequivocal yes then the communication or publicity is safe to be put out.
32. Where officers are uncertain as to whether a communication or publicity is appropriate they should seek advice from the communications unit and the monitoring officer in those cases.
33. If something cannot go out as a member has suggested then officers can explain why and offer an alternative form of words. Again the communications unit or the monitoring officer can offer you guidance on what would be appropriate.

The role of the Mayor

34. The Mayor is the first citizen of the borough and as such is apolitical. He or she is responsible for promoting the council as a whole and representing the council in civic and ceremonial events.
35. The Mayor is also responsible for chairing meetings of the council assembly and interpreting the constitution as necessary. Where the Mayor is unable to act or the office is vacant, the Deputy Mayor will discharge all of the Mayor's duties except that the deputy may not chair meetings of the council assembly unless specifically appointed to do so.

Key spokespeople

36. The role of the spokesperson is to present facts about council decisions, the context in which they were taken, actions, and issues faced by the council. Members who are key council spokespeople are the leader and deputy leader and cabinet members within their portfolio, the chair of overview and scrutiny committee, planning chair, licensing chair, chair of the relevant community council, standards chair and chair of the audit and governance committee. They will be quoted or featured in publicity where it relates to their responsibilities on the council.

Correspondence

37. Generally correspondence from one member should not be copied to, or discussed with, another member without the member's consent subject to any rights of access arising from the Freedom of Information Act 2000 and the Data Protection Act 1998. If a member has sought advice from an officer and included a circulation list, it can be assumed that the officer's response can be circulated to those people on the circulation list for the original letter, even if that list includes other members.
38. This does not prevent officers copying letters to each other about casework across ward or interest boundaries in order to respond to a member inquiry. Points of general interest to all members may be converted into general advice, and circulated (within the limitations set down in the Data Protection Act). A chief officer is also able to advise a relevant cabinet member in general terms of an issue raised with the chief officer in correspondence, or otherwise, by another member.
39. Official letters from the council should normally be sent out in the name of the appropriate officer rather than a member. It may be appropriate for members to write in certain circumstances (e.g. representations to a government minister); however, this would be the exception rather than the norm. Letters which create obligations or give instructions should not be sent out in the name of a member.

Postage

40. Preparation and postage of correspondence are a significant part of the support given to members. The content and purpose of letters, leaflets, and other correspondence must relate to the member's role in the authority. The members' services manager will arrange for monitoring arrangements to be put in place, and refer doubtful cases to the monitoring officer.
41. The use of council resources in the preparation and postage of the following kinds of post are not permitted:
 - private mail including correspondence for other bodies
 - mailshots
 - letters sending out information (concerning planning application, refuse collection, etc) which is the responsibility of officers
 - letters which criticise other groups and their members or praise the writer or their political group
 - group publicity such as political party greetings cards.

For the avoidance of doubt, correspondence to residents about the location of surgeries by members who do not have a fixed location for their surgery shall not constitute a mailshot.

42. The question of what is a mailshot has proved problematic. Members are entitled to use council resources to respond to requests that their constituents have raised with them for action and explain what action has been taken, but not generally to publicise their work in the ward. Requests to send out large numbers of letters will have to show what demand is being responded to, and

that the letter is a proportionate response to that demand. In any event, member services do not have the resources to send out more than one batch of such letters a month for any member. Members are reminded that this is a finite resource, and member services may need to limit the use of this if excessive costs are incurred. [Further advice is given by the monitoring officer guidance 'Correspondence and Mailshots' issued 18 January 2013 \[LINK\]](#)

43. Where members are uncertain as to whether a communication or publicity is appropriate they should seek advice from the head of communications and the monitoring officer in those cases.

Emails

44. Email and internet access facilities are provided to members to support work on council related activities. The standards set out for officers in the use of emails apply equally to members. The key standards are that:

- any behaviour or comment that is not permitted in the spoken or paper environment is also not permitted in an email message
- email messages should be inoffensive and should not be construed to harass
- emails must not incite racial hatred or be pornographic in nature either in the body of the text or as an attachment
- chain emails should not be forwarded on.

45. As a general rule, emails cannot be used for party political purposes but:

- emails organising the political group in relation to council business are allowed
- the use of the email address in a party political leaflet to advertise a ward surgery or as a means of allowing residents to contact their ward members on non-party political matters is allowed
- emails to newspapers as a means of commenting on council business from the political group's perspective are allowed.

46. Members should note the requirements for social media are given in paragraphs 21 and 22.

47. Members should remember that emails may be subject to disclosure if a request is made under the Freedom of Information Act 2000.

48. Any use of IT resources, including email and the internet, that contravenes any legislation (such as the Data Protection Act 1998; the Computer Misuse Act 1990; and the Copyrights, Designs and Patents Act 1988 (amended 2002)); or breaches the general obligations of the code of conduct for members; or breaches council policies on information security is considered to be unacceptable. Members are responsible for the content of any email sent from your username and in certain circumstances the council may also be found liable for the content of such email.

49. Emails and other personal information should be retained only for the minimum period necessary, in accordance with the Data Protection Act 1998. Further details on the Data Protection Act in term of members' business use can be obtained from legal services.

50. It is important that members manage the information that they store to ensure its availability, confidentiality and integrity. Therefore members should regularly review all council information (including files and email messages) they hold and delete all redundant or irrelevant data.
51. Where a telephone number has been issued to a member or group of members it is expected that this number will be publicised except on political publicity material.

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**COUNCIL ASSEMBLY AGENDA DISTRIBUTION LIST (OPEN) (FULL LIST)
MUNICIPAL YEAR 2013/14**

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

ONE COPY TO ALL UNLESS OTHERWISE STATED	Copies	To	Copies
All Councillors	1 each	Officers	5
Group Offices	2	Doreen Forrester-Brown	1
Alex Doel, Labour Group Office	1	Norman Coombe	1
William Summers, Liberal Democrat Group Office	1	Robin Campbell	1
		Alexa Coates	1
		Sonia Sutton	1
Press	2	Constitutional Team	25
Southwark News	1	(Copies to Lesley John, 2 nd Floor, Hub 4, Tooley Street)	
South London Press	1		
Corporate Management Team	5	Trade Unions	9
Eleanor Kelly	1	Roy Fielding, GMB	1
Deborah Collins	1	Mick Young, Unite	1
Romi Bowen	1	Chris Cooper, Unison	1
Duncan Whitfield	1	Tony O'Brien, UCATT	1
Gerri Scott	1	Michael Davern, NUT	1
		James Lewis, NASUWT	1
		Pat Reeves, ATL	1
		Miss Sylvia Morris, NAHT	1
		Irene Bishop, ASCL	
		Local M.P.	1
		Simon Hughes M.P.	
		Others	2
		Ann-Marie Connolly	1
		Elizabeth Olive, Audit Commission, Ground Floor, Tooley Street	1
		Total:	113