

Item No. 3.2	Classification: Open	Date: 24 May 2011	Meeting Name: Council Assembly (Annual Meeting)
Report title:		Establishment of Committees, Community Councils and Other Constitutional Issues – 2011/12	
Ward(s) or groups affected:		All	
From:		Strategic Director of Communities, Law & Governance	

RECOMMENDATIONS

1. That council assembly consider the following constitutional issues for the coming municipal year 2011/12:
 - Proportionality/size and composition of committees
 - Establishing the overview and scrutiny committee
 - Establishing a licensing committee
 - Establishing the community councils
 - Appointment of chairs and vice chairs
 - Establishing a standards committee
 - Establishing the constitutional steering panel
 - Establishing the voluntary bodies appointments panel and council assembly business panel
 - Agree dates of council assembly meetings for 2011/12
 - Appointments to Local Government Association General Assembly
 - Urgency committee
2. That council assembly notes the appointment of political group leaders, deputies and whips (see Appendix 1).

Proportionality/size and composition of council committees

3. That the size and composition of the council's regulatory and other committees be established in accordance with the number of seats each political group has on the council as a whole – this is known as "proportionality".

The table below is based on the assumption that the same committees are established in 2011/12 as existed in 2010/11.

Committee	Total	Lab	Lib Dem	Con
Committee 1 Appointments Committee	7	4	3	0
Committee 2 Planning Committee	7	4	3	0
Committee 3 Disciplinary Appeals Committee*	9	5	4	0
Committee 4 Audit and Governance	5	3	1	1

Committee	Total	Lab	Lib Dem	Con
Committee 5	7	4	3	0
Corporate Parenting Committee				
Total	35	20	14	1

* See recommendations 5 and 6 below.

Notes: 1. *The size and composition of the council's regulatory and other committees known as "ordinary committees" is set out above. This is based on a total number of 35 seats and includes the committees established in the 2010/11 municipal year. The proportionality is based on the total number of seats compared to the overall allocation of seats each political group has on the council. As the Labour Group has an overall majority on the council, it has been allocated a majority on each committee. The total number of seats on individual committees has had to be adjusted to ensure an overall proportionate allocation and ensure a majority on each committee.*

2. *Council assembly is exercising a matter reserved to it in Part 3A (4) of the constitution to establish committees. It is for council assembly to agree the committees it wishes to establish, to set the total number of seats and allocate them to the committees numbered 1 to 5 in the table above. In 2010/11 the council established appointments, planning, disciplinary appeals, audit and governance and corporate parenting committees.*

3. *At least one member of the cabinet shall serve on the appointments committee.*

4. *The constitution states the audit and governance committee will consist of:*

- *At least three councillors, and up to five councillors, including at least one member of each political group as defined by the Local Government and Housing Act 1989 Regulation 8 Local Government (Committees and Political Groups) Regulations 1990.*

No more than one member of the cabinet may be a member of the audit and governance committee and no cabinet member may chair the committee. No more than one member of the overview and scrutiny committee may be a member of the audit and governance committee and no member of the overview and scrutiny committee may chair the committee. In 2010/11 no members of the cabinet sat on the audit and governance committee and Councillor Toby Eckersley was the overview and scrutiny committee member on the committee.

4. That council assembly considers which of the committees are to be established in 2011/12.

5. That council assembly notes the decision at its meeting on 22 February 2011 to streamline the discretionary decision making framework of non statutory committees, noting paragraphs 31-32 on the future of the disciplinary appeals committee.

6. That the disciplinary appeals committee be established for a time limited period only to allow it to consider any appeals submitted by the date of the annual meeting.

Overview and scrutiny committee

7. That the size and composition of the overview and scrutiny committee, as set out below, be approved:

Committee	Total	Labour	Lib Dem	Conservative
Overview and Scrutiny Committee (2010/11 allocation)	11 (11)	6 (6)	4 (4)	1 (1)

Notes:

1. *The current overview and scrutiny procedure rules provide that the overview and scrutiny committee will consist of the chair, vice chair and the chairs of the scrutiny sub-committees provided that the proportionality rules are not compromised. Each political group is permitted to nominate members who are not cabinet members should it be necessary to maintain proportionality, for example, where there are fewer chairs of scrutiny sub-committees than places on the overview and scrutiny committee.*
2. *The overview and scrutiny committee and any sub-committee which scrutinises the council's education functions will contain in its membership four voting co-opted members comprising one Church of England, one Roman Catholic Church and two parent governor representatives.*
3. *No member of the cabinet shall serve on any scrutiny committee.*
4. *In 2010/11 the overview and scrutiny committee comprised 11 members. The political composition of the committee: Labour 6, Liberal Democrat 4, and Conservative 1.*

Community councils

8. That the community councils be established as set out below:

- Borough and Bankside
- Bermondsey
- Rotherhithe
- Walworth
- Peckham
- Camberwell
- Nunhead and Peckham Rye
- Dulwich

Licensing committee

9. That council assembly considers establishing a licensing committee with a total of 15 seats with the following allocation of seats:

- 8 Labour
- 6 Liberal Democrat

- 1 Conservative.

Note: In 2010/11 council assembly agreed to establish the committee on a proportionate basis comprising: 8 Labour, 6 Liberal Democrat and 1 Conservative.

Licensing sub-committee

10. That council assembly appoints a licensing sub-committee with delegated authority to hear licence applications including Licensing Act 2003, Gambling Act 2005, street trading and other licensing responsibilities granted by statute. The sub-committee to include members of the licensing committee with a quorum of three members.

Appointment of chairs and vice chairs

11. That council assembly considers whether it wishes to appoint chairs and vice chairs for the following committees and community councils:

Committees

- Overview and Scrutiny Committee
- Planning committee
- Licensing committee
- Appointments committee
- Disciplinary appeal committee
- Audit and governance committee
- Corporate parenting committee*

Community councils

- Borough and Bankside
- Bermondsey
- Rotherhithe
- Walworth
- Peckham
- Camberwell
- Nunhead and Peckham Rye
- Dulwich

*Notes: *In 2010/11 the cabinet member responsible for children's services chaired the corporate parenting committee. Council assembly is asked to formally approve this appointment in 2011/12.*

All outstanding appointments will be referred to the first meeting of the respective committee or community council in the 2011/12 municipal year.

Standards committee

12. That council assembly notes the constitution states all political groups must be represented on the standards committee and it should comprise of at least four councillors and up to seven councillors. Council assembly notes the decision in previous years to allocate the councillor membership proportionately. In order to comply with its constitutional requirements, council assembly is requested to establish

a standards committee comprising of six councillors. The seats to be allocated to political groups as follows:

- Labour 3 places
- Liberal Democrats 2 places
- Conservatives 1 place.

13. Political groups will be entitled to nominate reserves on the following basis:

- The number of reserves is equivalent to the number of places on the committee.

14. That in accordance with the constitution, the election of chair and vice chair takes place at the first meeting of the standards committee in the 2011-12 municipal year.

Notes: 1. The constitution states the standards committee will consist of:

- *At least four councillors, and up to seven councillors, including at least one member of each political group as defined by the Local Government and Housing Act 1989 Regulation 8 Local Government (Committees and Political Groups) Regulations 1990.*

2. No more than one member of the cabinet may be a member of the standards committee.

3. Guidance from Standards for England states that standards committees need not reflect the political balance of the authority. This is it says because the standards committee should be above party politics and its members need to have the respect of the whole authority, regardless of the governing political party.

Establishment of the constitutional steering panel

15. That council assembly agrees to establish a constitutional steering panel comprised of the whip and one other member from the Labour Group and the political whips of the other groups represented on the council, with the terms of reference set out in paragraph 55. Groups can nominate a reserve to attend in the absence of a representative.

16. That council assembly appoints a chair of the constitutional steering panel.

Establishment of the voluntary bodies appointment panel and council assembly business panel

17. That council assembly establishes the following council panels:

- **Voluntary bodies appointment panel (VBAP)** – The panel has a composition of 3 Labour and 2 Liberal Democrat members. The panel will be responsible for recommending the appointment of charity trustees to specific Southwark charities and recommending appointments to the position of school governor on local education authority secondary and special school governing bodies.

Note: In 2010/11 the panel of five members, which was established by council assembly, comprised 3 Labour and 2 Liberal Democrat.

- **Council assembly business panel** – The panel is chaired by the Mayor and also consists of one representative from each political group. The panel acts as an advisory panel to the Mayor on council assembly, including the annual programme and the setting of themes for debate.

Council assembly dates

18. That council assembly agrees to the following dates for meetings of council assembly and that these dates be fixed in the council calendar for the municipal year 2011/12
 - 6 July 2011
 - 12 October 2011
 - 30 November 2011
 - 25 January 2012
 - 22 February 2012 (Budget and council tax setting)
 - 28 March 2012
 - 23 May 2012 (Annual meeting).

Council calendar

19. That the calendar of council meetings for the 2011/12 municipal year ahead as shown at Appendix 5 be noted.

Appointments to Local Government Association General Assembly

20. That council assembly appoints upto three representatives and allocates five votes to the representatives to the LGA General Assembly (see Appendix 6).

Other appointments to joint committees/outside bodies

21. That council assembly notes the cabinet and other committees will make appointments to all other outside committees and bodies for the municipal year 2011/12 as required by part 3S of the constitution.

Urgency committee

22. That the role of the urgency committee between a municipal election and the annual meeting of council assembly be reviewed in light of the post-election period in 2010 and the new executive arrangements. Officers will report to the constitutional steering panel with proposals on future urgency arrangements.

BACKGROUND INFORMATION

23. The constitution is updated annually and the recommendations in this report are based on the current constitution.

KEY ISSUES FOR CONSIDERATION

Proportionality – the legal position

24. The Local Government and Housing Act 1989 covers the allocation of seats to political groups. It makes no provision for single independent councillors so they do not form part of the proportionality considerations.
25. Seats on committees and sub-committees must be allocated in accordance with the four principles of proportionality contained in sections 15, 16 and 17 of the Local

Government and Housing Act 1989. There is a duty to give effect to the following principles, as far as is reasonably practicable:

- (i) That not all the seats on a committee or sub-committee are allocated to the same political group;
- (ii) That the majority group must have the majority of seats on each committee or sub-committee;

Note: As the Labour Group has an overall majority on the council, this principle has been applied.

- (iii) Subject to (i) and (ii) above, it must be ensured that the proportion of each political group's seats of the total number of seats on "ordinary committees" reflects, as closely as possible, their proportion of seats on full council; and,

Notes: 1. The ordinary committees are appointments, planning, disciplinary appeals, audit and governance and corporate parenting. The total number of seats on these five committees must be allocated as proportionately as is reasonably practicable.

2. The licensing committee is appointed under the Licensing Act 2003 and the overview and scrutiny committee is appointed under section 21 of the Local Government Act 2000. Neither committee is an ordinary committee.

- (iv) Subject to (i) to (iii) above, the proportion of each political group's seats on each committee and sub-committee reflects as closely as possible their proportion of seats on full council.

Note: This rule applies to all committees, sub-committees and joint committees, except for licensing committee, standards committee and community councils.

Regulatory and other committees

26. The regulatory and other committees are the "ordinary committees" of the council. In 2010/11 the annual meeting established the following:

- Appointments committee
- Planning committee
- Disciplinary appeals committee
- Audit and governance committee
- Corporate parenting committee

27. The total number of seats on the ordinary committees is allocated and then divided between the committees to give each committee as proportionate an allocation as is possible within the overall total. It is proposed in recommendations 5 and 6 that the disciplinary appeals committee will be established for a limited time only to hear any appeals submitted by the date of the annual meeting. Once these hearings have been considered by the committee it will no longer constitute one of the council's ordinary committees. Officers have reviewed the impact on the proportionality calculations on the remaining four ordinary committees. This shows that the change will reduce the total number of seats to 26 places but this will not affect the proportionality nor change

the allocation of seats on these individual committees for the remainder of the municipal year.

28. Council assembly can agree an allocation that is disproportionate, provided no member votes against this.

Appointments to seats

29. Section 16(1) of the Local Government and Housing Act 1989 provides that it is the duty of an authority or committee to exercise its power to make appointments in such a way as to give effect “to such wishes about who is to be appointed to the seats on that body which are allocated to a particular political group as are expressed by that group”.
30. There is no requirement that a seat allocated to a particular group can only be filled by a member of that group. Therefore, groups have discretion to allocate seats as they wish, including to a member of another group, or an individual councillor or councillors sitting on the council.

Disciplinary appeals committee

31. Council assembly on 22 February 2011 considered the policy and resources strategy 2011/12 revenue budget for the council. As part of this it was reported to council assembly that efficiencies and improved use of resources would include a rationalisation of constitutional support whilst maintaining essential services, including support for statutory bodies and functions. In 2011/12 the streamlining of the decision making framework has led to a review of the arrangements for the disciplinary appeals. It is proposed that although the disciplinary appeals committee will be reconstituted at the annual meeting it will only consider those appeals already submitted by that date. Future appeals will be heard under the management appeals process.
32. Due to the length of hearings which usually take most of the day it has on occasions become difficult to find convenient dates in the calendar when sufficient members are available; this has led to a number of late minute cancellations and postponements during the course of the year. The council disciplinary code determines that appeals must be established as independent and fair. Also they must be heard in a timely manner. Alternative arrangements for dismissal appeals will be put in place to meet these essential needs and will be considered to afford greater protection for the council in any subsequent litigation. The trade unions are being consulted about the arrangements for appeals going forward; as yet this is unconcluded but positive steps have been taken. This reduction in the number of committees will lead to necessary savings in support that must be found in 2011/12 as part of the council’s efficiencies and improved use of resources.

Audit and governance committee

33. The constitution states that the audit and governance committee shall consist of at least three councillors, and up to five councillors, including at least one member of each political group. Council assembly notes the decision last year to allocate the councillor membership proportionately as one of the “ordinary committees”. In order to comply with its constitutional requirements, council assembly is recommended to establish a committee comprising of five councillors in 2011/12. The seats to be allocated to political groups as follows:
 - Labour 3 places
 - Liberal Democrats 1 place
 - Conservatives 1 place.

34. CIPFA's guidance (Audit Committees Practical Guidance for Local Authorities, 2005) states that although audit committees are not mandatory "Audit committees are an essential element of good governance". It goes on to say "Good corporate governance requires independent, effective assurance about the adequacy of financial management and reporting. These functions are best delivered by an audit committee, independent from the executive and scrutiny functions."

Overview and scrutiny committee

35. The overview and scrutiny committee is not an "ordinary" committee and is considered separately for the purposes of proportionality. Scrutiny sub-committees will be established by the overview and scrutiny committee at its first meeting and it will consider the allocation of places on sub-committees including members who are not part of any political group.
36. Council assembly can agree an allocation that is disproportionate, provided no member votes against this. The requirements on the authority or committee to make appointments to seats in accordance with the wishes of a particular political group are set out in paragraphs 29-30 above.

Community councils

37. The role of community councils is to promote the involvement of local people and to bring decision making closer to local people. Community councils take decisions about local matters and at present have some responsibility for decisions in the following key areas: local planning, the cleaner, greener, safer capital programme, traffic management, appointment of local education authority governors to local nursery and primary schools and agreeing schemes for the community project bank. Community councils also offer an important mechanism for formal consultation on council wide policies and strategies.
38. Community councils are divided by geographical areas as follows:

Bermondsey	Borough and Bankside
Camberwell	Dulwich
Nunhead and Peckham Rye	Peckham
Rotherhithe	Walworth

39. The membership of community councils includes those councillors who are members for the electoral wards wholly or partly contained within the area of each community council. The community councils meet about every six weeks, with a separate planning meeting about every four weeks. Community councils meet in local venues around the borough.

Licensing committee

40. Section 6 of the Licensing Act 2003 requires that each licensing authority must establish a licensing committee of at least 10, but no more than 15 members of the authority. The power to establish the committee rests with council assembly. Council agreed in December 2004 that the licensing committee should comprise 15 members in order to achieve maximum flexibility. This was in response to the anticipated increased frequency of meetings under the new arrangements in particular during the transition stage.

41. There is no requirement in the Licensing Act 2003 that the licensing committee should be proportionate. Council assembly agreed in December 2004 to establish the current committee on a proportionate basis. Council assembly, in 2010/11, agreed the following allocation of seats: 8 Labour, 6 Liberal Democrat and 1 Conservative.
42. The Licensing Act 2003 makes no provision to appoint reserve members.
43. The licensing sub-committees consist of 3 members and a reserve and are called up on when required and membership is based on the allocation process agreed in December 2007.
44. The number of sub-committees per year has dropped from 59 in 2005/06 to an estimated number of 28 for 2010/11, a decline of 53%. During the same period the number of applications heard has fallen from 70 to 41, a fall of 41%. This reduction in the number of sub-committees is a result of the decline in the number of applications together with a more efficient use of the meetings by hearing more than one application at a meeting.
45. Analysis of member availability since July 2010 through to October 2010 and of committee meetings over the past year indicated that there were on average 8 members out of 15 available for licensing sub-committees in August/September/October 2010 and for the 4 meetings of the committee held since October 2009, an average of 8 members were available/attended.

Appointment of chairs and vice chairs

46. With the exception of the standards committee, chairs and vice chairs may be appointed directly by council assembly or the appointments may be delegated to the first meeting of the relevant committee.
47. In the case of the corporate parenting committee, it is proposed that the cabinet member with responsibility for children's services be appointed chair. This is line with the decision of the annual meeting last year.

Standards committee

48. The council's constitution states that the standards committee must comprise of at least four councillors and up to seven councillors, including at least one member from each political group as defined by the Local Government and Housing Act 1989. Section 53(10) of the Local Government Act 2000 provides that the duty to allocate seats to political groups does not apply to a standards committee. The power to appoint members of the committee vests in council assembly and, in previous years, council assembly has appointed members on the basis of the number of seats allocated to each political group. Not more than one cabinet member may sit on a standards committee.
49. At least 25% of the committee's membership must be independent. In May 2009, council assembly agreed that the term of office for independent members be four years. Independent members can serve a maximum of two terms.
50. The following independent members will continue to serve on the standards committee after annual council:
 - Chris Gurney - until annual council May 2012 (1st term)
 - Peter Bibby - until annual council May 2012 (1st term)
 - Wendy Golding - until annual council May 2012 (2nd term)

- Mark Roelofsen - until annual council May 2013 (2nd term)
- Bola Ogun - until annual council May 2013 (2nd term).

51. The chair and vice chair are appointed at the first meeting of the committee in the new municipal year. The chair is elected from the independent members of the committee.

Reserve members

52. The council assembly, committee and overview and scrutiny procedure rules make provision for the appointment of reserve members to council committees and to scrutiny committees. There is no provision for reserves on the licensing committee or community councils.

53. Each political group can appoint reserve members. The number of reserve members a group can appoint is, with the exception of the overview and scrutiny committee and standards committee, one less than the number of places the group holds on the committee or sub-committee. If a political group holds only one place on a committee or sub-committee, that group may appoint one reserve member.

54. On the overview and scrutiny committee and the standards committee, the number of reserve members that each political group can nominate is equal to the number of places each group holds on the committee.

Establishment of the constitutional steering panel

55. The constitutional steering panel is responsible for reviewing and recommending amendments to the constitution. It is also responsible for making recommendations to council assembly for the award of the Honorary Freedom of the Borough and Honorary Aldermen and to recommend changes to the members' allowances scheme.

56. In 2010/11 council assembly established a panel with a membership comprising the group whip and one other member from the Labour Group and the whips of the other political groups represented on the council. In accordance with current practice the recommendation clarifies that groups can nominate a reserve to attend in the absence of a representative. Council assembly is also invited to appoint a chair of the constitutional steering panel.

Establishment of the voluntary bodies appointment panel and council assembly business panel

57. Council assembly will consider the establishment and composition of the following council panels:

- **Voluntary bodies appointment panel (VBAP)** – The panel has a composition of 3 Labour and 2 Liberal Democrat members. The panel will be responsible for recommending the appointment of charity trustees to specific Southwark charities and recommending appointments to the position of school governor on local education authority secondary and special school governing bodies.

Note: In 2010/11 the panel of five members, which was established by council assembly, comprised 3 Labour and 2 Liberal Democrat.

- **Council assembly business panel** – The panel is chaired by the Mayor and also consists of one representative from each political group. The panel acts as an advisory panel to the Mayor on council assembly matters, including the annual programme and the setting of themes for debate.

Council assembly dates

58. A calendar of council assembly meetings for the 2011/12 municipal year has been prepared and is shown in the recommendations. The proposed dates are based on the meetings held in 2010/11.
59. Council assembly is asked to formally agree these dates, in accordance with the relevant statutory provision.

Council calendar

60. A calendar of council meetings for the 2011/12 municipal year ahead has been prepared and is shown at Appendix 5.
61. The calendar is broadly based on a 6-week cycle; however the allocation of dates necessarily includes a number of deviations from the 6-week cycle to allow for school holidays, party conferences and other committed dates. Due to the business demands of the service, certain meetings will meet more frequently e.g. cabinet and planning. Cabinet procedure rule 2.1 requires that the cabinet should meet at least ten times per year, therefore cabinet meetings are scheduled in line with this requirement. Scrutiny sub-committees are indicated by a number in the draft calendar, pending their establishment by the overview and scrutiny committee.
62. In respect of meetings other than council assembly, this calendar is subject to amendments, additions and cancellations. The calendar is regularly updated throughout the year and is published on the council's website.

Appointments to Local Government Association (LGA) General Assembly

63. In 2010, due to increased financial constraints council assembly appointed two representatives to the Local Government Association (LGA) General Assembly and allocated 5 votes amongst the two representatives. In 2010 council assembly appointed Councillors Peter John (3 votes) and Anood Al-Samerai (2 vote). In 2011 council assembly is asked to appoint upto three representatives and allocate 5 votes (see Appendix 6). The LGA encourages local authorities with three or four representatives to allocate at least one position and vote to a minority group representative.

Appointments to outside bodies and joint committees

64. Government guidance states that appointments to outside bodies and joint committees are "local choice" functions. As such, the executive should make appointments that correspond to functions for which the executive has responsibility (e.g. housing, education, social services, regeneration, etc.). Council assembly agreed in 2003 that appointments to outside bodies, where they are not a function of the executive or delegated to any other body, should be the responsibility of standards committee or other delegated body.
65. The nomination of representatives to serve on the various London Councils committees and forums is normally the responsibility of the cabinet, as a local choice function. However, as the deadline for nominations is 1 June 2011 council assembly is asked to agree the nominations for the year 2011/12 (see separate report).

Urgency committee

66. The urgency committee, and sub-committees, function during an interim period between a municipal election and council assembly to exercise all the function of the council, that are not reserved by law to council assembly for decision, in cases where in the opinion of the chief executive it is necessary to act urgently. The urgency sub-committees consider planning and licensing applications and standards local filter issues. However, in light of the post-election period in 2010 and the new leader arrangements this is currently being reviewed. The next borough wide elections are in 2014. Officers will report to the constitutional steering panel with future proposals.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Appointment of Leader and Executive, Establishment of Committees and Other Constitutional Issues 2009-10 Council Assembly May 2009 report	160 Tooley Street, London, SE1 2QH	Ian Millichap 020 7525 7225

APPENDICES

Appendix	Title
Appendix 1	Political Group Leaders, Deputies and Whips
Appendix 2	Regulatory and Other Committees Appointments 2011/12
Appendix 3	Proportionality – Ordinary Committees – Proposal based on committees established in 2010/11
Appendix 4	Overview and Scrutiny Committee and Community Council Appointments 2011/12
Appendix 5	Council Calendar 2011/12
Appendix 6	Appointments to LGA General Assembly

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Communities, Law & Governance	
Report Author	Ian Millichap, Constitutional Manager Lesley John, Constitutional Officer	
Version	Final	
Dated	19 May 2011	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Strategic Director of Communities, Law & Governance	Yes	Yes (included in body of report)
Head of Human Resources	Yes	Yes (included in body of report)
Cabinet Member	No	No
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