

<b>Item No.</b> 2.2	<b>Classification:</b> Open	<b>Date:</b> 11 June 2014	<b>Meeting Name:</b> Council Assembly (Annual Meeting)
<b>Report title:</b>		Establishment of Committees, Community Councils, Panels and Related Matters – 2014/15	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Proper Constitutional Officer	

## RECOMMENDATIONS

1. That council assembly notes the appointment of political group leaders, deputies and whips (see Appendix 1).
2. To note the new division of seats and percentage allocation of each political group on the council as follows:

**Table 1: Division of seats**

Group	Total	%
Labour	48	76.19
Liberal Democrat	13	20.64
Conservative	2	3.17
Total	63	100.00

3. That council assembly establishes the following committees and community councils for the coming municipal year 2014/15:

**Table 2: Ordinary Committees - Total number of seats 35**

Note: The allocation prior to the borough wide elections is shown in brackets. This table is based on the committees established in 2013/14. To achieve the most proportionate allocation of seats, the total number of seats has been reduced to 35.

Committee	Total	Lab	Lib Dem	Con	Other
Committee 1 Appointments Committee	7	6 (4)	1 (3)	0	0 (-)
Committee 2 Planning Committee	7	5 (4)	2 (3)	0	0 (-)
Committee 3 Standards Committee	7 (11)	5 (6)	1 (3)	1	0 (1)
Committee 4 Audit and Governance Committee	7	5 (4)	2 (2)	0 (1)	0 (-)
Committee 5 Corporate Parenting Committee	7	6 (4)	1 (3)	0	0 (-)
Total	35 (39)	27 (22)	7 (14)	1	0 (1)

**Table 3: Other committees - Total number of seats 29**

Committee	Total	Lab	Lib Dem	Con
Overview and Scrutiny committee	11	8 (6)	3 (4)	0 (1)
Licensing Committee	15	11 (8)	3 (6)	1 (1)

**Community councils:**

- Bermondsey and Rotherhithe
- Borough, Bankside and Walworth
- Camberwell
- Dulwich
- Peckham and Nunhead.

Note: Membership as set out in Article 8 of the constitution (see paragraphs 53 – 55 of this report).

**Health and wellbeing board**

4. That the health and wellbeing board be established as a committee of the council under the Health and Social Care Act 2012 with the membership set out in paragraph 51 of the report.
5. That council assembly considers whether it wishes to review the membership of the board.
6. That it be noted that the local authority membership is nominated by the leader of the council. In accordance with committee procedure rules, the board is chaired by the leader.

**Appointment of chairs and vice chairs**

7. 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
- Audit and governance committee
- Corporate parenting committee\*
- Standards committee

**Community councils**

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

Notes: \* In 2013/14 the cabinet member responsible for children's services chaired the corporate parenting committee. Council assembly is asked to formally approve this appointment in 2014/15.

All outstanding appointments will be referred to the first meeting of the respective committee or community council in the 2014/15 municipal year.

### **Establishment of the council's panels**

8. That council assembly establishes the following council panels (see paragraph 66):

**Table 4: Panels - Total number of seats 18**

Note: The allocation in 2013/14 is shown in brackets with the proposed changes in bold.

Committee	Total	Lab	Lib Dem	Con	Other
Council assembly business panel	<b>5 (6)</b>	3	1	1	<b>0 (1)</b>
Constitutional steering panel	<b>5 (6)</b>	3	1	1	<b>0 (1)</b>
Pensions advisory panel	3	1	1	1	<b>0 (1)</b>
Voluntary bodies appointment panel	5	<b>4 (3)</b>	<b>1 (2)</b>	0	<b>0 (0)</b>

### **Appointments of chair to constitutional steering panel and voluntary bodies appointment panel**

9. That council assembly appoints a chair to the constitutional steering panel and voluntary bodies appointment panel.

### **Appointments to Local Government Association General Assembly**

10. That council assembly appoints up to three representatives and allocates five votes to the representatives to the LGA General Assembly (see Appendix 2).

### **Other appointments to joint committees/outside bodies**

11. That council assembly notes the cabinet and other committees will make appointments to all other outside committees and bodies for the municipal year 2014/15 as required by part 3S of the constitution.

### **Urgency committee**

12. That the role of the urgency committee between a municipal election and the annual meeting of council assembly, as agreed by council assembly on 26 March 2014, be noted as set out in paragraphs 71 and 72.

### **BACKGROUND INFORMATION**

13. The constitution is updated annually and the recommendations in this report are based on the current constitution and previous decisions of the council.

## KEY ISSUES FOR CONSIDERATION

14. The division of seats and percentage allocation of each political group on the council is as follows:

### Division of seats

Group	Total	%
Labour	48	76.19
Liberal Democrat	13	20.64
Conservative	2	3.17
Total	63	100.00

### Proportionality – the legal position

15. The size and composition of the council's regulatory and other committees are established in accordance with the number of seats each political group has on the council as a whole – this is known as “proportionality”.
16. 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.
17. 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

Notes: 1. The ordinary committees are appointments, planning, audit and governance and corporate parenting and the standards committee. (see also paragraphs 20 – 23)

- 2. The licensing committee is appointed under the Licensing Act 2003, the overview and scrutiny committee is appointed under section 21 of the Local Government Act 2000 and the health and wellbeing committee is appointed under the Health and Social Care Act 2012 and is to be treated as if appointed under section 102 of the Local Government Act 1972. None of the committees are 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 the licensing committee.

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

### **Appointments to seats**

19. 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".

### **Ordinary committees**

20. The regulatory and other committees are the "ordinary committees" of the council. In 2013/14 the annual meeting established the following:

- Appointments committee
- Planning committee
- Audit and governance committee
- Corporate parenting committee
- Standards committee.

21. 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. Officers have reviewed the impact on the proportionality calculations on the ordinary committees for 2014/15. The table set out in recommendation 3 is based on the assumption that the same committees are established in 2014/15 as existed in 2013/14.

22. 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.

23. 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.

### **Appointments committee**

24. The appointments committee determines appointments to posts of chief officers, chief finance officer and monitoring officer.
25. At least one member of the cabinet shall serve on the appointments committee.

### **Standards committee**

26. The Localism Act 2011 ("the Act"), section 27 of the Act places a duty on the council to ensure that its members and co-opted members maintain high standards of conduct and requires such authorities to adopt a code of conduct for their members.
27. Although the act does not make provision for a 'standards committee' the council has the power to form a 'standards committee' under the Local Government Act 1972. In May 2013 the council established a standards committee with the role of exercising a general duty to "promote and maintain high standards of conduct by members and co-opted members" of the authority.
28. Not more than one cabinet member may sit on a standards committee.
29. The increase in the size of the committee was necessary in ensuring that all political groups were represented on the committee.
30. A summary of the role and function of the committee is set out in the Appendix 2.

### **Audit and governance committee**

31. The audit and governance committee provides independent assurance of the adequacy of the council's governance arrangements, independent scrutiny of the council's financial and non-financial performance and has oversight of the financial reporting process of the council.
32. In 2013/14 in order to ensure the audit and governance committee included at least one member of each political group, council assembly established a committee comprising seven councillors.
33. The constitution states 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. The chair may be a deputy cabinet member as this role does not include the exercise of any delegated powers.
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."
35. 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 2013/14 no members of the

cabinet sat on the audit and governance committee and former Councillor Toby Eckersley was the overview and scrutiny committee member on the committee.

### **Overview and scrutiny committee**

36. The overview and scrutiny committee (OSC) is the coordinating scrutiny body and appoints a number of scrutiny sub committees. It questions cabinet members and can "call-in" decisions taken by the cabinet, individual cabinet members, community councils taking decisions on executive functions and key decisions taken by chief officers.
37. OSC co-ordinates councillor calls for action and scrutiny of crime and disorder, considers requests for scrutiny reviews and approves scrutiny work programmes. It receives and comments on reports from scrutiny sub-committees, and reviews overview and scrutiny procedures.
38. The committee can also appoint joint committees with other local authorities.
39. 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.
40. Council assembly can agree an allocation that is disproportionate, provided no member votes against this.
41. The 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 and/or if there are fewer chairs of scrutiny sub-committees than places on the overview and scrutiny committee.
42. The overview and scrutiny committee and any sub-committee which scrutinises the council's education functions will contain in its membership four voting education representatives in addition to its councillor members, comprising one Church of England, one Roman Catholic Church and two parent governor representatives.
43. No member of the cabinet shall serve on any scrutiny committee.

### **Health and wellbeing board**

44. The community councils are area 'committees'. The regulations<sup>1</sup> relating to the health and wellbeing board makes provision for the disapplication and modification of certain enactments relating to local authority committees appointed under section 102 of the Local Government Act 1972, insofar as they are applicable to a health and wellbeing board established under section 194 of the Health and Social Care Act 2012. The regulations aim to provide local areas with the flexibility and freedom to shape their health and wellbeing board as best fits with local circumstances. In particular:

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<sup>1</sup> *The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 No. 218*

- Health and wellbeing board will be free to establish sub-committees and delegate functions to them.
  - Voting restrictions have been lifted so that non-elected members of a health and wellbeing board (i.e. CCG representative, local Healthwatch, Directors of Public Health, Children's Services and Adult Social Services and any wider members) could vote alongside nominated elected representatives on the committee.
  - Political proportionality requirements have also been lifted so that the question of political proportionality of health and wellbeing board membership is left to local determination.
45. The Health and Social Care Act 2012 enables the local authority to arrange for any of its functions to be exercised by the board should it so wish. The board will not have the power to perform any of the functions given to the health overview and scrutiny committee, and it will itself be subject to overview and scrutiny as a committee of the council. In addition members of scrutiny committees should not be members of the health and wellbeing board as this may create a conflict of interests.
46. It will be for the leader of the council under the 'strong leader' model to decide, based on the work of the committee through its first year of operation, whether any executive functions should be delegated to the board. Until such a decision is taken, the board will operate in accordance within the council's existing decision-making framework and normal council budget setting processes.
47. The secondary legislation provides no prescription regarding political proportionality for the health and wellbeing board. The cabinet on 12 February 2013 recommended that this be reflected in Southwark with no stipulation regarding the political proportionality of the membership of the board. It was noted at constitutional steering panel on 5 March 2013 that the issue of membership and representation from other political groups was an issue that could be considered by the board and the council in the future.
48. Beyond the technical governance and constitutional arrangements, there is a need to set out the way that the board will operate on a practical level. It is for each health and wellbeing board to determine how their decisions are made. The board will collectively take decisions via consensus, although provision for a vote is included should one be required.
49. Health and wellbeing board must include six statutory members which are:
- At least one councillor, who will be (or be nominated by) the leader
  - The director of adult social services of the local authority
  - The director of children's services of the local authority
  - The director of public health of the local authority
  - A representative of local healthwatch
  - A representative of the clinical commissioning group.
50. The primary legislation states that beyond the statutory members, the board can also include *(g) such other persons, or representatives of such other persons, as the local authority thinks appropriate*. The board once constituted will have the power to appoint additional members as it sees fit. The local authority may also appoint such additional members as it sees fit (in consultation with the board if an appointment is made after the establishment of the board).



51. On 27 March 2013 council assembly agreed the membership of the health and wellbeing board as follows:

- Local authority councillors, who will be (or be nominated by) the leader of the council\*
  - The leader of the council\*
  - The cabinet member for health and adult social care\*
  - The cabinet member for children's services\*
- The chief executive of the council
- The strategic director of children's and adults' services\*
- The director of public health\*
- Three representatives from the clinical commissioning group\*
- A representative of Southwark HealthWatch\*
- A representative from King's Health Partners
- Southwark Borough Commander, Metropolitan Police Service
- The chief executive of Community Action Southwark.

\* = Denotes a statutory member of the board.

The membership was agreed for a fixed-term until the annual meeting of council assembly in 2014; thereafter it will be reviewed annually at the annual meeting of council assembly from 2014 onwards. This was to allow the membership to stay relevant to the work that the board chose to focus on.

52. All members of the health and wellbeing board are subject to Southwark's Code of Conduct for elected members when acting as a member of the board and will be subject to declarations of disclosable pecuniary interests. As a consequence it is recommended that substitutes should not be permitted at meetings of the committee.

### Community councils

53. Community councils take decisions about local matters and have some responsibility for decisions in the following key areas: the cleaner, greener, safer capital and revenue programmes, community council fund, traffic management and agreeing schemes for the community infrastructure levy project bank. Community councils also offer an important mechanism for formal consultation on council wide policies and strategies.

54. Following the decision by council assembly in February 2012, there are five community councils areas divided by geographical areas as follows:

**Table 5: Community councils areas divided by geographical areas**

Name of community council	Members from electoral wards serving on community councils
Bermondsey and Rotherhithe	Grange, Livesey (north of the Old Kent Road), Riverside, Rotherhithe, South Bermondsey and Surrey Docks wards
Borough, Bankside and Walworth	Cathedrals, Chaucer, East Walworth, Faraday and Newington wards

Name of community council	Members from electoral wards serving on community councils
Camberwell	Brunswick Park, Camberwell Green and South Camberwell wards
Dulwich	College, East Dulwich and Village wards
Peckham and Nunhead	Livesey (south of the Old Kent Road), Nunhead, Peckham, Peckham Rye and the Lane wards

55. The membership of community councils included those councillors who were members for the electoral wards wholly contained within the area of each community council. Following the decisions of council assembly in February 2012, the community councils met five times a year in 2013/14. Community councils meet in local venues around the borough.

### **Licensing committee**

56. 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 and provide a sufficient pool of members to ensure quorate sub-committees.
57. 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 2013/14, agreed the following allocation of seats: eight Labour, six Liberal Democrat and one Conservative.
58. The Licensing Act 2003 makes no provision to appoint reserve members.
59. In accordance with the constitution, 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 and a reserve and are called up on when required and membership is based on the allocation process agreed by the licensing committee in December 2007.

### **Appointment of chairs and vice chairs**

60. 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.
61. 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.
62. The health and wellbeing board is chaired by the leader of the council, in accordance with committee procedure rule 9.13.

## **Reserve members**

63. 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, the health and wellbeing board or community councils.
64. 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.
65. 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 council's panels**

66. Council assembly will consider the establishment and composition of the following council panels:
  - **Council assembly business panel** – The panel is chaired by the Mayor and consists of two representatives from the majority group (one of whom is the whip) and the whips of the other political groups represented on the council. 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.
  - **Constitutional steering panel** – The 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.

In 2013/14 council assembly established a panel with a membership comprising the group whip and two other members from the majority group and the whips of the other political groups represented on the council. In accordance with current practice 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.

- **Pensions advisory panel** – The panel has a composition of three members, officers, independent advisors and a trade union representative. The purpose of the panel is to advise the chief finance officer when performing functions relating to the council's pension scheme.
- **Voluntary bodies appointment panel** – The panel has a composition of three Labour and two 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.

### **Council assembly dates**

67. A calendar of council assembly meetings for the 2014/15 municipal year was agreed at council assembly on 26 February 2014. This meeting agreed the council assembly dates, in accordance with the relevant statutory provision.

### **Appointments to Local Government Association (LGA) General Assembly**

68. In 2013 council assembly appointed two representatives to the Local Government Association (LGA) General Assembly and allocated 5 votes amongst the two representatives. Councillors Peter John (3 votes) and Anood Al-Samerai (2 vote) were appointed. In 2014 council assembly is asked to appoint up to three representatives and allocate 5 votes (see Appendix 2). 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**

69. Government guidance states that appointments to outside bodies and joint committees are “local choice” functions. As such, the cabinet 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.
70. 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 July 2014 council assembly is asked to agree the nominations for the year 2014/15 (see separate report).

### **Urgency committee**

71. On 26 March 2014 council assembly established the urgency committee, together with planning and licensing sub-committees, to function during the interim period between the municipal election and the annual meeting of council assembly. The urgency committees will exercise all the functions of the council, other than those reserved by law to council assembly for decision, in cases where in the opinion of the chief executive it was necessary to act urgently. The urgency committees have normally only met to consider issues that are time sensitive and cannot wait for the annual meeting to establish the decision making arrangements.
72. Council assembly on 26 March 2014 agreed that the urgency arrangements should be as follows:
- i. Urgency committee - If the leader is re-elected the urgency committee will deal with non-executive functions only that are not reserved by law to council assembly, and are not planning or licensing applications. In the event the leader is not re-elected or is unable to act, the urgency committee will also exercise executive functions. The urgency committee arrangements comprise the leaders of the two largest political groups following the borough-wide elections.

- ii. Executive arrangements – Executive decisions will be exercised by the leader (if personally re-elected or his nominee, a relevant cabinet member). If the leader is not re-elected, then any executive decisions will be dealt with by the urgency committee. If the leader (or relevant cabinet member) is required to take an executive decision, because the normal scrutiny arrangements would not have been established by the annual meeting, executive decisions would be treated in a similar way to urgent implementation decisions or an urgent decision outside the budget and policy framework.
- iii. Planning and licensing – Separate arrangements exist for a planning (urgency) sub-committee and a licensing (urgency) sub-committee. Each licensing (urgency) sub-committee convened to hear an urgent application will comprise of three licensing members who will be selected using the current procedure from the pool of re-elected councillors who previously served on the licensing committee. The arrangements are set out in more detail in Part 3 of the council's constitution.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
<p>Appointment of Leader and Executive Functions 2013/14 Report - Council Assembly 22 May 2013</p> <p>Establishment of committees and other constitutional issues 2013/14 - Report - Council Assembly 22 May 2013</p> <p>Agenda and minutes for the following meetings:</p> <ul style="list-style-type: none"> <li>• Council Assembly 23 May 2012</li> <li>• Council Assembly February 2012</li> <li>• Cabinet 12 February 2013</li> <li>• Constitutional Steering Panel 5 March 2013</li> <li>• Council Assembly 26 February 2014</li> <li>• Council Assembly 26 March 2014</li> </ul>	<p>Southwark Council Constitutional team 160 Tooley Street, London, SE1 2QH</p>	<p>Ian Millichap 020 7525 7225</p>

## APPENDICES

Appendix	Title
Appendix 1	Political Group Leaders, Deputies and Whips (to be circulated separately)
Appendix 2	Appointments to LGA General Assembly

## AUDIT TRAIL

Lead Officer	Ian Millichap, Constitutional Manager	
Report Author	Lesley John, Principal Constitutional Officer	
Version	Final	
Dated	2 June 2014	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Legal Services	Yes	Yes (included in body of report)
Strategic Director of Finance and Corporate Services	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team		3 June 2014