

<b>Item No.</b> 57.2	<b>Classification:</b> Open	<b>Date:</b> 27 <sup>th</sup> November 2002	<b>Meeting Name:</b> Council Assembly
<b>Report title:</b>		Community Councils	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Executive	

## RECOMMENDATIONS

1. That the Council establish area committees to be known as Community Councils with effect from 1<sup>st</sup> April 2003.
2. That there should be eight Community Councils with suggested names as follows, covering the areas indicated (see also Appendix 1): -
  - i) Borough and Bankside  
(Cathedrals and Chaucer wards);
  - ii) Bermondsey  
(Grange, Riverside and South Bermondsey wards);
  - iii) Rotherhithe  
(Livesey (north of the Old Kent Road), Rotherhithe and Surrey Docks wards);
  - iv) Walworth  
(East Walworth, Faraday and Newington wards);
  - v) Peckham  
(Livesey (south of the Old Kent Road) and Peckham wards);
  - vi) Camberwell  
(Brunswick Park, Camberwell Green and South Camberwell wards);
  - vii) Nunhead and Peckham Rye  
(Nunhead, Peckham Rye and The Lane wards) and;
  - viii) Dulwich  
(College, East Dulwich and Village wards).
3. That the devolution of powers and functions to Community Councils take place in two phases with Phase 1 commencing on 1<sup>st</sup> April 2003.
4. That the following functions be devolved in part to Community Councils in Phase 1, subject to changes in the constitution::

### **Non- executive functions**

Planning; and

Licensing

**Executive functions**

Community Safety Capital;

Local traffic management issues; and

Environmental Improvement Programme Capital

In addition the Community Councils will have both specific and general consultative rights.

5. That Council Assembly agree to allocate the required monies for Community Councils identified in this report (see paragraph 23) in order for Community Councils to commence in April 2003 and that Members decide which option(s) for funding to pursue.

(Note: Members attention is drawn to the advice of the Chief Finance Officer in paragraphs 39 - 43 of this report).

## **BACKGROUND INFORMATION**

6. In June 2002, the Executive agreed in principle to establish Community Councils from April 2003. To progress the proposal, two parallel processes were agreed. Consideration of the powers, functions and format of the Community Councils was referred to the Overview and Scrutiny Committee, which in turn referred this for action to the Finance and General Purposes Scrutiny Sub-Committee. Consultation on the boundaries and functions was carried out on behalf of the Executive.
7. The Finance & General Purposes Scrutiny Sub-Committee conducted its inquiry between July and September, and reported to Overview & Scrutiny Committee on 16<sup>th</sup> October 2002. The Sub-Committee identified six powers for devolution to Community Councils in Phase 1, from 1<sup>st</sup> April 2003, as follows:
  - Planning
  - Licensing
  - Community Safety Capital
  - Traffic
  - Environment Improvement Programme Capital
  - Appointment of LEA School Governors to Primary Schools<sup>1</sup>

The Overview & Scrutiny Committee recommended that all the powers listed above, with the exception of the appointment of LEA School Governors to Primary Schools, should be referred to the Executive.

8. The Executive on the 22<sup>nd</sup> October 2002 considered the majority and minority reports from the Sub-Committee and the recommendations of Overview & Scrutiny Committee. The Executive supported the recommendations of the Overview & Scrutiny Committee and the general principles contained in the majority report, subject to further advice from officers on the operational and constitutional implications.

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<sup>1</sup> Following consultation with the Education, Youth and Leisure Scrutiny Sub-Committee, the Overview & Scrutiny Committee decided not to recommend this power for devolution to Community Councils. The Sub-Committee advised that the present system of appointments was working well and benefited from an Appointments Panel with a single focus.

The Executive on 22<sup>nd</sup> October 2002 agreed to undertake further research on the areas recommended for devolution and asked for a report back to the meeting on the 19<sup>th</sup> November 2002.

9. The Executive referred to Council Assembly recommendations on the major principles for Community Councils and the budget implications. A full copy of the decision is set out in Appendix 2.

## **KEY ISSUES FOR CONSIDERATION**

10. The proposal to localise decision-making is a key objective of the Administration's programme for Southwark and is consistent with Government's modernising agenda, with the aim of bringing government and decision-making nearer to local people. The principles behind this include the desire to widen participation particularly with those communities who are usually excluded; to increase involvement, shape services and policies, deliver democratic renewal, and strengthen community cohesion.
11. The power to create local decision making bodies is contained in the Local Government Act 1972 and is extended to executive functions in the Local Government Act 2000. These acts allow for the creation of decision-making bodies (often known as area committees) and consultative bodies (often known as area forums). There are two salient points highlighted in the Statutory Guidance to the Local Government Act 2000 (to which Members must have regard).
  - In making arrangements for [community councils] "the principal aim should be to ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making" (Chapter 6.11)
  - "...[community councils] or [area] forums can have an important role to play in helping give the people a say in the way in which a local authority works." (Chapter 6.15).
12. The Executive recommends:
  - Areas and suggested names for the eight Community Councils (see paragraph 2 and Appendix 1);
  - Community Councils should be effective from 1<sup>st</sup> April 2003;
  - They should have a small number of powers, devolved over two initial phases;
  - There should be both specific and general consultative rights.
13. The Executive recommends five powers for devolution to Community Councils in Phase 1, from 1<sup>st</sup> April 2003, as follows:
  - Planning
  - Licensing
  - Community Safety Capital
  - Traffic
  - Environment Improvement Programme Capital

## Implementation

14. Following the decision of Council Assembly, the Executive will continue to look at specific operational, performance and financial issues concerning the implementation of community councils, including considering good practice on engagement.
15. In particular, on the 22<sup>nd</sup> October 2002 the Executive agreed to undertake a range of consultation on a number of issues, including:
  - a) Operational implications of implementing council decisions and tackling practical issues of implementation including format of meetings best suited to each area.
  - b) The names of Community Councils and the preferred meeting venues.
  - c) The interface with existing forums, e.g. Housing Neighbourhoods, Health, Police and the voluntary sector.
  - d) Development of engagement structures linked to new areas.
16. These matters will be reported back to the Executive and form part of the implementation process for the establishment of community councils.
17. A further report to Council Assembly on the changes to the Southwark Constitution will be submitted in February 2003, following consideration by the Executive and Standards Committee. An indicative timetable for constitutional changes is set out below:

### Indicative Timetable for Constitutional Changes

Meeting	Date	Action
Standards Committee	18th December 2002	To consider outline changes proposed.
Overview and Scrutiny Committee	15 <sup>th</sup> January 2003 (or possibly later)	To comment on call-in and other consequential changes to Overview and Scrutiny Rules.
Executive	28 <sup>th</sup> January 2003	To comment on changes.
Licensing Committee	28 <sup>th</sup> January or 4 <sup>th</sup> February 2003	To comment on changes.
Planning Committee	3 <sup>rd</sup> February 2003	To comment on changes.
Standards Committee	12 <sup>th</sup> February 2003	To consider proposed changes, including views of Executive and comments of Overview and Scrutiny, Planning and Licensing Committees.
Council Assembly	24 <sup>th</sup> February 2003	To consider and agree changes to Constitution.

18. Standards Committee must consider changes to the Constitution before consideration by Council Assembly.
19. The budgetary implications of Community Councils will be included in the report to Council Assembly on the budget setting process for 2003/04 in February 2003.

20. The Executive has also agreed that six months after the start of operations of Community Councils there should be a review of progress, which will also look at the implementation of Phase 2. As part of an ongoing process, the Executive will monitor the performance of community councils.

### Policy implications

21. Adoption of the proposals contained in this report will continue the progress towards implementing one of the key principles of the Administration's manifesto, taking decision-making closer to local communities and local people.

### Effect of proposed changes on those affected

22. The establishment of Community Councils will have a major impact on those involved in the decision-making processes of the Council, including councillors, local people and officers. There is likely to be a longer term impact on policy formulation and partnership working and other committee structures, particularly those with a scrutiny function. It is difficult to assess the full impact but the role and functioning of Community Councils will be monitored by the Executive and subject to further review after six months of operation.

### Resource implications

23. The table below summarises the financial implications of establishing Community Councils as considered by the Executive, and shows the different types of cost, the timescale and whether they are one-off or on-going. All costs will need to be reviewed as part of the six month review.

<b>Costs of introducing Community Councils</b>	<b>2002/03</b>	<b>2003/04</b>	<b>2003/04</b>
	<b>One-off</b>	<b>One-off</b>	<b>On-going</b>
	<b>£</b>	<b>£</b>	<b>£</b>
Community Development			150,000
Community Council Programme Manager (including recruitment costs)	40,000		70,000
Constitutional Support			200,000
Additional Officer Support		60,000	263,000
Venues (including room hire and accommodation improvements)	25,000		32,000
Other Meeting Costs (including advertising)	25,000		148,000
Member training, equipment	32,000		
Contingency fund for additional meetings			30,000
<b>Total</b>	<b>122,000</b>	<b>60,000</b>	<b>893,000</b>
<b>Community Chest</b>			<b>tbd</b>

(See also Chief Finance Officer's comments in paragraphs 39 – 43)

### Consultation

24. Consultation with stakeholders was undertaken by the Executive with a range of community groups and stakeholders on powers and functions of the community councils, and on numbers and boundaries. Reports were submitted

to Scrutiny and the Executive on the outcome of consultation in respect of issues raised by consultees about powers, functions and format.

25. Arising from the Executive's consideration of the scrutiny report on the 22<sup>nd</sup> October a wide range of consultation on implementing the proposals and associated issues will be undertaken as part of the implementation of the Community Councils initiative, subject to the decision of Council Assembly.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Borough Solicitor & Secretary**

26. The following paragraphs (26 – 38) set out the legal advice in relation to the recommendations of the Executive to establish Community Councils commencing 1<sup>st</sup> April 2003. A fuller version of this advice was given to the Finance and General Purposes Scrutiny Sub-Committee (see background papers).

#### Nature of community councils

27. The Local Government Act 1972 enables a local authority to delegate the discharge of its functions to committees, sub-committees or to an officer. This applies to non-executive functions and enables the powers to be delegated to committees or community councils, which have a geographical basis. The Local Government Act 2000 and various regulations made under the Act permit the exercise of executive functions at area level.
28. The proposal to create Community Councils exercising a limited range of executive functions as well as acting as consultative bodies and determining planning and licensing applications would create a hybrid body. The split of functions between Executive and Non-executive functions is set out below: -

#### **Non-executive functions**

Planning; and  
Licensing

#### **Executive functions**

Community Safety Capital;  
Local traffic management issues; and  
Environmental Improvement Programme Capital

29. Only the exercise of executive functions would be subject to call-in. The rules governing call-in will need to be reviewed to make sure that they operate in a way which enables appropriate scrutiny of local decisions on executive functions. Community Councils will not have a formal scrutiny function.

#### Proportionality

30. The usual requirement for political balance on committees and sub-committee will not apply to the eight Community Councils proposed in Recommendation 2 provided that all members appointed to serve on Community Councils have been elected to serve wards that fall wholly or partly within the part of the borough covered by the Community Council.

### Planning issues

31. The exercise of the council's planning functions operates within a well-defined and comprehensive legal framework which will continue to apply whether decisions are taken locally or centrally. It will therefore be important that all members of the council are fully trained in planning issues so that they are able to make well-informed decisions which comply with the statutory framework.
32. The devolution of some planning decisions to local level will highlight the current tensions between members' conflicting roles as decision takers and community leaders and advocates. Clear protocols will need to be established to assist members in managing the tensions and reaching decisions which cannot be challenged on procedural grounds. The more local nature of decision-making will also increase the possibility that members may have personal and prejudicial interests in applications.

### Licensing issues

33. The Council's licensing powers are also contained within a well-defined legal framework with rights of appeal to the courts. As with the planning function, this framework will apply whether decisions are taken locally or centrally.
34. It will be necessary to ensure that all members are trained in licensing issues to ensure that decisions are well informed and comply with the legal framework.
35. The transfer of licensing decisions to local forums will highlight potential conflicts between the different roles, which members carry out within their communities as well as increasing the possibility that members will have personal and possibly prejudicial interests in individual applications.
36. There will be a need for an agreed protocol on licensing to assist members in reaching decisions.

### Changes to the Constitution

37. Setting up Community Councils with the powers indicated in Recommendation 4 will require a number of changes to the Constitution. A summary of the likely changes can be found at Appendix 3 to this report. The proposed changes will be referred to the relevant committees and bodies, e.g. the Executive, Overview and Scrutiny Committee, Licensing Committee and Planning Committee for comment and views prior to consideration by Standards Committee and Council Assembly in February 2003.

### Overall Considerations

38. In considering the recommendations of the Executive, Council Assembly should consider all relevant matters, including the advice of the Chief Finance Officer.

### **Chief Finance Officer**

39. As reported to the Executive on 5<sup>th</sup> November 2002, the Council's financial position for 2003/04 and future years is uncertain. Current estimates for 2003/04 indicate that the cost of current services will amount to some £369 million. In addition there are proposals for growth which could amount to a further £15 – 20

million. This is against an income estimate (using a 6.2% council tax increase) of some £361 million. Until the Government announces the Local Government Settlement in December, there is considerable uncertainty over the actual level of income available to the Council as a result of the Government's review of Standard Spending Assessments.

40. The introduction of Community Councils from 1<sup>st</sup> April 2003 will entail set up costs of £122,000 in 2002/03 and some £950,000 in 2003/04. Although the costs arising in 2002/03 could be met from balances, there is currently no funding provision for costs arising in 2003/04. The extent of resources that will be available to Council next year is not known and a decision to implement Community Councils from 1<sup>st</sup> April 2003 would pre-empt future decisions. The funding required would have to be identified. This could mean reducing Council expenditure on other services, not agreeing other growth, increasing Council Tax or a combination of all or any of these.
41. In light of the volatility of the Local Government Finance settlement projections, it is the view of the Chief Finance Officer, that, from a financial perspective, no new unfunded long-term commitments should be entered into until such time as the Executive has had the opportunity to examine the Council's financial position following the settlement in December.
42. In financial terms it would be better to identify the savings needed to fund Community Councils, whilst understanding that considerable savings could be needed to fund the Council's budget in any case. The alternative would be to defer consideration of Community Councils until later in the year. If the Council were to adopt this alternative approach it would delay a decision on Community Councils until Council Assembly agrees the budget in February 2003. This would mean the implementation date would be beyond next year's Constitutional Council.
43. The Council Assembly needs to decide, in the light of the Chief Finance Officer's advice in the paragraphs above and other considerations, whether to introduce Community Councils.

#### **REASON FOR URGENCY**

44. This report is urgent because of the need to take decisions on the Council's policy on the establishment of Community Councils, in order to ensure that the timetable for commencement and the necessary constitutional changes can be in place by 1<sup>st</sup> April 2003. This item is a matter reserved for decision by Council Assembly as part of the Budget and Policy Framework. The next scheduled meeting of Council Assembly is not until 22<sup>nd</sup> January 2003, which would be too late for commencement in April 2003.

#### **REASON FOR LATENESS**

45. The report was late due to the need to complete officer consultations on the report.



## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Executive Agenda - 22nd October 2002	Southwark Town Hall Peckham Road London SE5 8UB	Everton Roberts 020 7525 7225
Finance & General Purposes Scrutiny Sub-Committee – Report on Community Councils October 2002 (including a concurrent report from the Borough Solicitor & Secretary on legal issues concerning the creation of Community Councils)	“	Fitzroy Williams 020 7525 7238
Executive - 5 <sup>th</sup> November 2002 – Report on Revenue Budgets for 2002/03, 2003/04 and Future Years	“	Jo Anson 020 7525 7355

## LIST OF APPENDICES

<b>Appendix 1</b>	Map of Southwark indicating the boundaries and suggested names for Community Councils
<b>Appendix 2</b>	Executive Decision on Community Councils – Extract from the Minutes of the meeting held on 22 <sup>nd</sup> October 2002
<b>Appendix 3</b>	Table of Anticipated Changes to the Constitution

## REPORT DETAILS

<b>Lead Officer</b>	Bob Coomber, Chief Executive
<b>Report Author</b>	Ian Millichap, Constitutional Support Manager (Executive) Lyn Meadows, Assistant Borough Solicitor
<b>Version</b>	Final
<b>Dated</b>	18/11/02

**Appendix 1**

**Map of Southwark indicating the boundaries and suggested names  
for Community Councils**

Insert Map

## **Appendix 2**

### **Executive decision on Community Councils – Extract from the Minutes of the meeting held on 22<sup>nd</sup> October 2002**

107 **COMMUNITY COUNCIL REPORTS – EXECUTIVE MEMBER COMMENTS**  
(see page 2629)

108 **COMMUNITY COUNCILS – SCRUTINY INQUIRY REPORT**  
(see pages 2630 to 2721)

109 **COMMUNITY COUNCILS – IMPLEMENTATION PROPOSALS**  
(see pages 2722 to 2739)

110 **COMMUNITY COUNCILS – CONSULTATION ON AREAS**  
(see pages 2740 to 2753)

Items 107, 108, 109 and 110, were considered together.

The Chair accepted the items as urgent in order to maintain the timetable set by the Executive for the establishment of Community Councils by 1<sup>st</sup> April 2003.

- RESOLVED:**
1. That the reports on community councils be received.
  2. That the majority and minority reports of the Finance & General Purposes Scrutiny Sub-Committee, and the comments of the Education, Youth & Leisure Scrutiny Sub-Committee and the Overview & Scrutiny Committee on Community Councils be noted.
  3. That the specific reports on implementation and consultation from the Chief Executive and Head of Social Inclusion be noted.
  4. That the general principles which underpin the work of the Finance & General Purposes Scrutiny Sub-committee set out in paragraph 11 of the majority report be supported.
  5. That Members and officers be thanked for their hard work in developing and progressing these proposals.
  6. That urgent work be undertaken by officers to provide further information and research relating to:
    - a) Planning, identified in paragraphs 24 to 27, 30 and 33 of the majority report.
    - b) Licensing, identified in paragraphs 42, 43, 47 and 49 to 53 of the majority report.
    - c) Environmental Management, identified in paragraphs 122 to 141 of the majority report.

- d) Community Safety Capital, identified in paragraphs 61 to 63 of the majority report.
  - e) Delegation of a range of traffic management decisions to local level.
  - f) Budgetary and financial implications identified in paragraphs 158 to 163 of the majority report.
  - g) Preliminary information on venues and associated costs and to report back to the Executive on 19<sup>th</sup> November 2002 on the above.
7. That the recommendations contained in the majority report be supported, subject to the further advice to be received by officers as outlined above.
  8. That a report be submitted to Council Assembly on 27<sup>th</sup> November 2002 on the major principles that Council Assembly might agree.
  9. That it be recommended to Council Assembly that area committees be known as Community Councils and should be established in Southwark from 1<sup>st</sup> April 2003, and that:
    - a) There should be 8 Community Councils named as follows, covering the areas indicated:
      - i) Borough and Bankside  
(Cathedrals and Chaucer wards);
      - ii) Bermondsey  
(Grange, Riverside and South Bermondsey wards);
      - iii) Rotherhithe  
(Livesey (north of the Old Kent Road), Rotherhithe and Surrey Docks wards);
      - iv) Walworth  
(East Walworth, Faraday and Newington wards);
      - v) Peckham  
(Livesey (south of the Old Kent Road) and Peckham wards);
      - vi) Camberwell  
(Brunswick Park, Camberwell Green and South Camberwell wards);
      - vii) Nunhead and Peckham Rye  
(Nunhead, Peckham Rye and The Lane wards) and;
      - viii) Dulwich  
(College, East Dulwich and Village wards).

- b) That Council Assembly agree the resources identified in paragraph 11, pages 2731 to 2732 of the Chief Executive's report on implementing Community Councils in order to implement the decision for the current financial year and following years.
10. That Officers consider the community development required to support community councils as part of the best value review of community development and identify the possible levels of resources needed for community councils.
  11. That further consultation be undertaken to inform the implementation process as set out in paragraph 4.17 of the report (page 2747) and that the Executive receive on 19 November 2002 a wider strategy of public consultation as part of enhancing community engagement.
  12. That the consultation,
    - f) focus on operational implications of implementing council decisions and tackle practical issues of implementation including format of meetings best suited to each area.
    - g) include the names of Community Councils and the preferred meeting venues.
    - h) include internal briefings and training programmes for Council staff.
    - i) be used to clarify the interface with existing forums, eg. Housing Neighbourhoods, Health, Police Sectors and the voluntary sector.
    - j) be used to develop engagement structures linked to new areas.
    - k) contribute to preparatory training for Members and local people on format and content of Community Council meetings.
  13. That the implications of Community Councils as set out in the Chief Executive's report be noted.
  14. That there be a review of Community Councils after 6 months of operation which should also look at the implementation of Phase 2.
  15. That the Executive monitor the performance of Community Councils.
  16. That the Chief Executive draw up an implementation programme, consistent with the above decisions and report back to the Executive on 19<sup>th</sup> November 2002.

## Appendix 3

### Table of Anticipated Changes to the Constitution

<i>Constitution</i>	<i>Reference/Issue</i>	<i>Change Required</i>
Summary & Explanation		Reference to Community Councils
Article 2: Members of the Council	2.04: Key tasks of Chairs	Broad outline in respect of Chairs of Community Councils
Article 3: Citizens and the Council	3.01: Participation	Any specific means of participation at Community Councils e.g. public question time
Article 6: Overview & Scrutiny Committee and Sub-Committees	6.02: General Role 6.03: Specific Functions – Scrutiny 6.05: Terms of Reference	Appropriate addition to reflect role/functions in respect of Community Councils
Article 8: Regulatory and other Committees	8.01: Regulatory and other Committees	To reflect delegation of planning and licensing functions to Community Councils
Article 10: Area Committees and Forums	All current paragraphs  Additional paragraphs	Change of name to Community Councils  Form, Composition & Function /Delegations
Article 13: Decision Making	New 13.09: Decision Making by Community Councils	To refer either to appropriate parts of Council Procedure Rules or to new separate rules
Part 3A: Matters reserved to Council Assembly	7, 8, 9 & 10	Add Community Councils
Parts 3D & 3E: Matters reserved to Planning and Licensing Committees		To reflect delegation of planning and licensing functions to Community Councils
Council Assembly Procedure Rules	9: Application to Committees and Sub-Committees	Either extend to Community Councils or introduce new separate rules (including public question time? planning and licensing procedures?)

<i>Constitution</i>	<i>Reference/Issue</i>	<i>Change Required</i>
Access to Information Procedure Rules	1: Scope	Extend to Community Councils
Budget and Policy Framework Procedure Rules	2: Process for developing the Framework	Community Councils to be consulted directly or via Overview & Scrutiny Committee?
Executive Procedure Rules	1.1: Who may make Executive decisions  1.2: Delegation by the Leader  1.3: Sub-delegation of Executive functions	Extend to Community Councils  iii) Change “area committees” to “Community Councils”  Extend to Community Councils
Overview and Scrutiny Procedure Rules	18: Call-in 19: Procedure following Call-in	To be extended in relation to executive decisions taken by Community Councils