

Item No. 71	Classification: Open	Date: 24.2.03	MEETING NAME Council Assembly
Report title:		Motions Submitted in Accordance with Council Procedure Rule 3.9	
Ward(s) or groups affected:		All	
From:		Chief Executive (Borough Solicitor & Secretary)	

COUNCIL PROCEDURE RULE 3.9: PROCEDURAL ADVICE ON MEMBERS MOTIONS

A Member may not move more than one Motion. All Motions must be signed and seconded and delivered to the Borough Solicitor & Secretary not later than fifteen clear days before the meeting.

In accordance with CPR 3.9 the Member moving the Motion will be asked by the Mayor to move the motion. The Mover may then make a speech directed to the matter under discussion. (This may not exceed five minutes without the consent of the Mayor).

The Secunder 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 open up to debate on the issue and any amendments on the Motion will be dealt with.

At the end of the debate the Mover of the Motion may exercise 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 Members to vote on the Motion (and any amendments).

IMPLICATIONS OF NEW CONSTITUTION

The new constitution allocates particular responsibility for functions to Council Assembly, for approving the budget and policy framework, and to the Executive, 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 reserved to Executive (i.e. housing, social services, regeneration, environment, education etc) can not be decided upon by Council Assembly without prior reference to the Executive. While it would be in order for Council Assembly to discuss an issue, consideration of any of the following should be referred to the Executive:

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

1. MOTION FROM COUNCILLOR KIM HUMPHREYS (seconded by Councillor Lewis Robinson)

Please note that in accordance with Council Procedure Rule 3.9 (3), this motion shall be considered by Council Assembly

Council notes the poor physical state and lighting of the footpath between Thurlow Park Road and Acacia Grove running adjacent to the railway line. Council notes that both the Police, residents' group and ward councillors have expressed concerns to the Council about the impact that this disrepair has to the personal safety of users of the footpath. Council further notes that the Council is in dispute with Network Rail over who is responsible for the footpath. Council notes that this dispute has lasted for over a year and accordingly requests that the Council adopt the footpath so that its condition can be improved in the immediate future.

COMMENTS OF THE STRATEGIC DIRECTOR OF ENVIRONMENT AND LEISURE

A land search has shown that no interest is registered for this area. It would be possible for the Environment & Leisure Department to take responsibility for it and adopt it as a public footway. Some work has been done to clear overhanging vegetation and to make the area safe but any major repairs cannot be funded at the moment. It will, however, be inspected routinely and will be treated under the same safety criteria as any other footpaths for urgent repairs.

It is recognised that there is a need to upgrade existing lighting and complete repairs to the footway surface. A detailed inspection report has been prepared and is being costed in preparation for the new financial year. This work will be done early in the next financial year, subject to available funding.

2. MOTION FROM COUNCILLOR MARK GLOVER (seconded by Councillor Lorraine Lauder)

Please note that in accordance with Council Procedure Rule 3.9 (3), this motion shall be considered by Council Assembly

Council Assembly

- (1) Notes the important role that security systems on housing estates have in reducing both crime and the fear of crime.
- (2) Notes the concerns of tenants and leaseholders about the ongoing failure of the housing department's contractor for door-entry systems.
- (3) Asks the Executive to receive a report on tackling this failure.

- (4) Asks the Executive to ensure that all service charges are refunded to tenants and leaseholders when their door-entry systems are inoperable.

COMMENTS FROM THE STRATEGIC DIRECTOR OF HOUSING

- (1) There is a general recognition that security systems on housing estates can and do have a role in reducing both crime and the fear of crime . The importance of tackling crime and the fear of crime is embodied in the Council's key corporate priorities.
- (2) Whilst there is certainly cause for concern at the demise of the main contractor for door entry systems and the subsequent failure of the back-up contractor there has been a concerted effort by all concerned to ensure that the backlog created over a few months has reduced significantly and the interim arrangements with the new (3rd) contractor appear to be working satisfactorily.

All Neighbourhoods have reported much improved levels of satisfaction of late, although there remain some issues around obtaining certain parts for repairs. The new contract is currently being tendered for an anticipated start in the new Financial Year.

- (3) As above, there have not been any recent reports of the interim arrangements failing and the new door – entry contract is due to start on site as scheduled in the new Financial Year.
- (4) Wherever charges are applied for door-entry systems reimbursement will be considered on an individual basis for leaseholders and tenants .Due to the complicated recent changes in contracts, calculations will be made at the end of the Financial Year by which time all backlogs should have been resolved.

3. MOTION FROM COUNCILLOR JOHN FRIARY (seconded by Councillor Tony Ritchie)

Please note that in accordance with Council Procedure Rule 3.9 (3), this motion shall be considered by Council Assembly

This Council gives every support to the Grosvenor estate residents in their request that the Council's executive does everything within its power to ensure that Kids Company vacate their current premises. Council further requests that the Council Executive finds suitable alternative premises as soon as possible so that Kids Company's good work in supporting some of this Borough's most disadvantaged young people is both guaranteed and secured.

JOINT COMMENTS OF THE BOROUGH SOLICITOR AND STRATEGIC DIRECTOR OF REGENERATION

Under the Council's Constitution responsibility for taking further action to ensure that Kids Company vacate their current premises on the expiry of the planning enforcement notice rests with the Planning Committee rather than with the Executive. The Development Control Committee resolved to serve

an enforcement notice and institute legal proceedings on 26 September 2000.

The enforcement notice requires the use to cease by 26 April 2003. If inspection of the premises at Grosvenor Terrace after that date reveals that the use is continuing the Development Control Manager has delegated power to instruct the Borough Solicitor to commence legal proceedings. Those proceedings, including possible prosecution, will be carried out in accordance with the normal procedures of the Council.

In the meantime the Council continues to work with Kids Company to try to find alternative premises for the charity's operations. Details of properties within the council's own portfolio have been sent to them regularly and site searches carried out. A meeting has taken place with the deputy director of Kids Company, and a brief setting out their requirements has been prepared. The Property Division continues to search for suitable premises and has been in contact with other letting agents working in the private sector and with Spacia, Kids Company's current landlord. Because of the planning designation of the activities carried out by Kids Company, it may be necessary for a planning application for a change of use to be made once suitable alternative premises have been located.

4. MOTION FROM COUNCILLOR ALUN HAYES (seconded by Councillor Tayo Situ)

Please note that in accordance with Council Procedure Rule 3.9 (3), this motion shall be considered by Council Assembly

Council Assembly

- (1) Notes the concern of Southwark Tenants and Residents regarding unauthorised sub-letting of council homes.
- (2) Acknowledges that home visits have their role but are not in themselves guaranteed to detect all occurrences of sub-letting.
- (3) Requests the Executive to receive a report within the next three months looking at:
 - (a) Best practice by other authorities.
 - (b) The balance between the work of a central fraud team and providing dedicated officers to individual neighbourhoods.
 - (c) Access to internal and external information sources.
 - (d) The financial implications of reducing the level of sub-letting.
- (4) Agrees that the views of Tenants Council should be sought on the report going to the Executive.

COMMENTS FROM THE STRATEGIC DIRECTOR OF HOUSING

- 1 Unauthorised occupation of Council homes is of major concern to all that are in the business of administering public services , not only because of loss of income to the Housing Revenue Account but also because potentially fraudulent access to a Council tenancy may open the door to other benefits and services and prevents bona fide persons in need of accommodation obtaining it.
- 2 The methods currently used have been in operation for just over 4 years and are currently being reviewed both in light of the additional growth of £200k proposed in the Rent and Budget Setting report for 2003/04 for this area of activity and as part of the general review to ensure that we remain in the forefront of best practice in this area.

The current procedure, which was devised by officers, Members and a sub group of Tenant Council, entails various means of identifying unauthorised occupation. At the point of sign-up, prospective tenants are required to have a photograph taken in order to sign for the tenancy. Another, as noted by Cllr. Hayes, is the personal visits to a third of individual tenancies each year. In addition , tenants are required to complete a correspondence check on an annual basis and there is added support from the Special Investigations Team together with targeted surveillance.

On top of these a widespread programme of anti-fraud training and publicity to the general public to assist identification of illegal sub-letting was put in place. Subsequently , targeted initiatives have occurred on specific estates around unauthorised occupancy but linked to other factors (eg, Four Squares “crack-house” initiative)

Prior to the inception of the photographic identity scheme in 1999 a full report was submitted to Housing Committee outlining practices across other London boroughs and local authorities across England, Wales and Scotland. The best practice arrangements which were built into the new Southwark protocols following this benchmarking now need to be reviewed in light of our experience and updated benchmarking is about to be undertaken.

- 3 & 4 Proposals in the next year to extend the photo identity scheme to existing tenants are currently central to discussions of the Tenancy Agreement Working Party (a sub- group of Tenant Council with officers) and will be consulted on with Tenant Council and the Executive . The same working party is also proposing an annual process requiring tenants re-establish their occupancy details. Depending on whether these proposals are formally agreed, officers are intending to use this as the cornerstone of the review of unauthorised occupancy checks and develop a new good practice model and improvement plan with every intention of involving Tenant Council in the development of the new model as with the last.

Consideration of bolstering the support given by the Special Investigation Section into a wider centralised team to supplement the work undertaken by the neighbourhood offices will form part of the review of the unauthorised occupancy procedure in general and part

of the implementation phase of the Best Value Review of Housing Management.

It is expected that final implementation of the Tenancy Agreement Working Party' decisions will not happen until September 2003 and as such a report to Tenant Council and Executive will fit in with that timeframe.

5. MOTION FROM COUNCILLOR ANDY SIMMONS (seconded by Councillor Abdul Mohamed)

Please note that in accordance with Council Procedure Rule 3.9 (3), this motion shall be considered by Council Assembly

Council Assembly notes with extreme concern that the Housing Department's performance on the Housing Improvement Programme as judged by the Government Office for London has fallen from average to below average this financial year and asks the Executive to receive an urgent report outlining how this deterioration will be reversed.

COMMENTS FROM THE STRATEGIC DIRECTOR OF HOUSING

The Council is responsible for producing a Housing Strategy, which together with the HRA Business Plan and various statistical appendices is usually submitted each year to the Government Office for London (GoL). GoL's assessment of these documents for 2002/03 has recently been received and the authority was judged as being "Below Average", representing a drop of one band from "Average" the previous year. The scoring of the documents are made against the Government's "Fit for Purpose" criteria. This is the first year in which this particular set of criteria has been employed and no authority in London reached the level of producing a "Fit for Purpose" submission.

The "Below Average" assessment is based on performance relative to other London boroughs and is in contrast to the Comprehensive Performance Assessment (CPA) of Southwark's Housing service which scored 3 out of 4. The CPA is based on a national, rather than regional picture of relative performance.

Discussions have taken place with GoL officials and it is clear that there are no major problems with the Housing Strategy and only more information is required before it is "Fit for Purpose". If this can be achieved within the next six weeks, no updated strategy will be required this year. The HRA Business Plan, however, has inherent weaknesses – for instance in that the stock condition information is not up to date. Officers are now working to address these concerns (e.g. a new stock condition survey is now underway) and produce this year's Business Plan in July. However it is considered that the Council has been treated unfairly by GoL, partly it seems because of a lack of clarity about the assessment criteria, and we are appealing against the assessment.

Given that whatever the outcome of this appeal, it is important that efforts are now concentrated on improving performance in the development of the Business Plan, it is not proposed that a separate report is produced for the

Executive as the new Business Plan must be completed by July and will be considered by the Executive beforehand.

6. MOTION FROM COUNCILLOR RICHARD THOMAS (seconded by Councillor Richard Porter)

Please note that in accordance with Council Procedure Rule 3.9 (3), this motion shall be considered by Council Assembly

This Council believes that the current voting system acts as a barrier to participation in local democracy, Unjustified outcomes, such as:

- entrenched one-party dominance.
- greatly exaggerated majorities
- 'losers' winning overall control

feed the belief that voting doesn't make a difference.

In contrast, more representative councils would be more involving of and more accountable to local communities.

Council notes the Scottish Executive's proposal to introduce voting reform for local government and the Assembly's consideration of similar reforms in Wales.

Council therefore calls on the government to take steps to introduce a proportional voting system for local government in England.

COMMENTS FROM THE BOROUGH SECRETARY & SOLICITOR

As the motion indicates, decisions regarding the voting methods in force in any election are decided by its Government, and are primarily political choices. There are no specific legal or election issues to support one choice over another.

Were any change to be proposed there would be widespread consultation and the views of the Electoral Commission and Returning Officers in the country would be sought on practical issues and in particular on likely impact on voter turnout.

7. MOTION FROM COUNCILLOR DAVID BRADBURY (seconded by Councillor Toby Eckersley)

Please note that in accordance with Council Procedure Rule 3.9 (3), this motion shall be considered by Council Assembly

That the Executive is requested

(a) to instruct Officers to report urgently on:

- (i) the feasibility and merits of shifting the southern boundary of the Mayor of London's Congestion Charging Scheme to the north bank of the Thames and;
- (ii) means of relieving the unacceptable burden on Tower Bridge which is likely to be caused by the Congestion Charging Scheme in its current form; and

(b) to present its findings and conclusions to Council Assembly no later than 30th April 2003

COMMENTS FROM THE STRATEGIC DIRECTOR OF REGENERATION

The congestion charging scheme will come into effect on 17th February 2003. The legal basis of the scheme is the Scheme Order, which was confirmed by the Mayor of London ("the Mayor") on 26th February 2002. The scheme was instigated by the Mayor and has been consulted on, on that basis. The scheme can only be varied by the Mayor - not by Southwark or any other local authority in London. Indeed, a series of minor variations to the scheme has been put forward by Transport for London (TfL) on behalf of the Mayor and consulted on.

The Council's Ratification Committee considered its consultation response to the Draft Scheme Order on 25th September 2001. The Council's consultation response supported the proposed designation of the charging zone boundary, though expressed concerns about the capacity of Tower Bridge to accommodate increased traffic levels and that in view of this traffic may seek alternative routes. At that time the committee considered that suitable complementary measures would be required to protect residents from excessive traffic increases. The Council has obtained monies for various complementary measures (including Controlled Parking Zones and traffic calming schemes) to mitigate the effects of the scheme as may be reasonably determined in advance of the scheme going live.

TfL is monitoring the scheme, with respect to traffic levels and other effects, and has an established base from which to measure the implications of the scheme. The Council is also monitoring traffic levels at a variety of sites outside the inner ring road.

TfL's view is that the outcomes of the scheme will not be known for some time, as traffic will need to adjust to the new circumstances. In view of this it will not be possible to present a settled view of the effect of the scheme as soon as the 30th April 2003.

Officers and Councillors met with TfL on 31st January 2003 to raise outstanding concerns – about the capacity of the Rotherhithe tunnel to handle anticipated increase in traffic, about the likely increase in powered two-wheel vehicles journeys and collisions/injuries potentially arising and about the effects of the displacement of collisions involving personal injuries. TfL will be monitoring these and other effects.

8. MOTION FROM COUNCILLOR WILLIAM ROWE (seconded by Councillor Lewis Robinson)

Please note that in accordance with Council Procedure Rule 3.9 (3), this motion shall be considered by Council Assembly

That the Executive is requested to instruct officers not to take up the option, recently granted by the Deputy Prime Minister, to reduce the maximum discount available on Right To Buy properties in Southwark to £16,000.

COMMENTS FROM THE STRATEGIC DIRECTOR OF HOUSING

On 22nd January 2003, the Deputy Prime Minister announced a series of measures to modernise the Right to Buy system. These are targeted, in particular, at areas of significant housing market pressure and include a decision by the Deputy Prime Minister to exercise his powers under Section 131 of the Housing Act 1985 to lower the maximum prescribed RTB discount to £16,000 in certain areas including Southwark.

The areas targeted in this way have been identified on the basis of the following criteria:

- a measure of homelessness as at 31st March 2002
- a measure based on Land Registry house price data for the 3rd quarter of 2002

The reduction in discounts applies unless an authority can demonstrate to the satisfaction of the Deputy Prime Minister that local housing pressures in a particular area do not justify this action. Any such request for exclusion from the planned Parliamentary Order giving effect to the reduction in discounts was required to be submitted to the Deputy Prime Minister by 5th February.

The Strategic Director for Housing considered that no special circumstances applied in Southwark that would support a request from exclusion from the Government's proposals.

9. MOTION FROM COUNCILLOR LEWIS ROBINSON (seconded by Councillor Kim Humphreys)

Please note that in accordance with Council Procedure Rule 3.9 (3), this motion shall be considered by Council Assembly

That the Executive is requested to instruct Officers:

a) To cancel the £15 charge now being imposed on leaseholders for providing a breakdown of service charges.

b) To re-assess the way that the Council's computer and administrative systems are used so that adequate information and explanation of service charges can be supplied to leaseholders without the need for either an additional fee (in addition to the management fee already charged) or subsidy from the Housing Revenue Account.

COMMENTS FROM THE STRATEGIC DIRECTOR OF HOUSING

Southwark is entitled to charge leaseholders for any administration costs that are incurred in the delivery of a service. Such charges are only made where it

is felt reasonable and to avoid such costs being placed on secure tenants and other leaseholders. There is a growing financial cost incurred to the Council in extracting data and forwarding the information in those cases where leaseholders request additional information about their service charges. The charge is £15 per request. The Council in the past has absorbed these costs. There are now however almost 10,000 leaseholders that could ask for this information and the costs can no longer be contained without a charge being made.

It has been agreed that discussions are to take place with representatives of the Leaseholder Council to consider if there are ways of minimising such charges. This will include whether such payments could be refundable if it is established that any leaseholder has been overcharged and whether costs might be minimised by group requests for information.

At the same time the Council is looking at ways to improve the level and quality of information systems on leasehold and other services to minimise the time and costs required to extract such information. This will certainly assist in improving the speed and accuracy with which responses can be made but it is inevitable that there is a financial cost to this work that cannot be ignored.

It should be noted in conclusion that other London authorities already impose individual charges for direct administrative cost work for leaseholders. For example Wandsworth charge a sum of £15 for this specific element of work with Greenwich and Tower Hamlets charging between £15 and £20 for similar work.

10. MOTION FROM COUNCILLOR TOBY ECKERSLEY (seconded by Councillor William Rowe)

Please note that in accordance with Council Procedure Rule 3.9 (3), this motion shall be considered by Council Assembly

In respect of grant-giving and relations with the Voluntary Sector, Council Assembly

- (i) Notes the advice of the Head of Social Inclusion in paragraph 22 of her 24th January 2003 report to the Executive that, although a review 'commenced in September 2002', the terms of reference and scope of the review were not due to be approved until January 2003; and
- (ii) Therefore regrets the delay of at least four months and the failure of the review to inform grant-giving decisions for 2003/04

COMMENTS FROM THE CHIEF EXECUTIVE

REPORT TO FOLLOW

Background Papers	Held At	Contact
Members Motions submitted in Accordance with CPR 3.9	Constitutional Support Unit, Town Hall, Peckham Road, London SE5 8UB.	Lesley John Constitutional Support 020 7525 7228

APPENDIX A

Audit Trail

Lead Officer	Ian Millichap, Constitutional Support Manager (Executive)	
Report Author	Lesley John, Constitutional Support Unit	
Version	Final Draft	
Dated	11.2.03	
Key Decision?		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Chief Executive	Yes	Yes
Strategic Director of Education	No	No
Strategic Director of Environment & Leisure	Yes	Yes
Strategic Director of Housing	Yes	Yes
Strategic Director of Regeneration	Yes	Yes
Strategic Director of Social Services	No	No
Chief Finance Officer	No	No
Borough Solicitor & Secretary	Yes	Yes
Date final report sent to Constitutional Support Services		11.2.03