

Item No. 3	Classification: Open	Date: 21st May 2003	Meeting Name: Council Assembly
Report title:		Constitutional Issues for 2003/04 Municipal Year	
Ward(s) or groups affected:		All	
From:		Chief Executive (Borough Solicitor & Secretary)	

RECOMMENDATIONS

1. That Council Assembly consider the following constitutional issues for the coming municipal year 2003/04:
 - Election of Leader and appointment of Executive
 - Proportionality / Size and Composition of Committees
 - Reserve Members
 - Appointment of Chairs and Vice-Chairs
 - Appointment of Councillor members on Standards Committee
 - Agreeing Calendar of meetings for 2003/04
 - Appointments to Local Government Association General Assembly

Political Group Leaders, Deputies and Whips

2. That Council Assembly notes the appointment of Political Group Leaders, Deputies and Whips, as set out in Appendix B.

Election of Leader of the Council and appointment of Executive

3. That Council Assembly elects a Leader of the Council.

(Note: Following the election of the Leader, Council Assembly shall receive a report from the Leader on nominations for appointment to the Executive. The Leader can nominate between 2 and 9 other Members to form an Executive).

4. That Council Assembly appoints the Executive.

Proportionality / Size and composition of Council Committees

5. That the size and composition of the Council's regulatory and other committees be appointed as follows:

Committee	Total	Liberal Democrats	Labour	Conservative
Committee 1 – Appointments Committee	8	4	4	0
Committee 2 – Planning Committee	8	4	3	1
Committee 3 – Licensing Committee	8	3	4	1
Total	24	11	11	2

Note: *At least one Member of the Executive shall serve on the Appointments Committee.*

6. That the sub-committees of the Appointments Committee be appointed as follows:
 - Disciplinary Appeals Sub-Committee
 - Disciplinary Appeals Panel (Safeguarding Children and Vulnerable Adults)

7. That the size and composition of Overview & Scrutiny Committee as set out below be appointed:
 1. *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 six Scrutiny Sub-Committees provided that the proportionality rules are not compromised and provided that each political group is permitted to nominate one non-Executive Member should this be necessary to maintain proportionality; and Education representatives.*
 2. *The Overview and Scrutiny Committee and also any sub-committee which scrutinises the Council’s education functions will contain in its membership four voting co-opted members from Church of England, Roman Catholic Church and two parent governor representatives.*
 3. *No Member of the Executive shall serve on a Scrutiny Committee.*
 4. *The current political composition of the committee is Liberal Democrats 4, Labour 3 and Conservative 1.*

8. That in accordance with Overview & Scrutiny Procedure Rules, the themed scrutiny sub-committees be appointed by Overview and Scrutiny Committee.

9. That the size and composition of Community Councils as set out in Appendix C be agreed.

(Note: The membership of Community Councils is in accordance with the schedule agreed by Council Assembly on the 24th February 2003)

Reserve Members

10. That Council Assembly agrees that the number of reserve members serving on Standards Committee and those Committees listed in recommendations 5, 6 and 7 above be as follows:
- Reserve Members for the Councillor Members of a Committee – each political group is entitled to have a number of reserves, being one fewer reserve than they have seats on the Committee, subject to a minimum of one.

Appointment of Chairs and Vice-Chairs

11. That Council Assembly appoints the Chair and Vice-Chair of the Overview and Scrutiny Committee.
12. That Council Assembly considers whether it wishes to appoint Chairs and Vice-Chairs for the following meetings:
- Planning Committee
 - Licensing Committee
 - Appointments Committee
 - 8 Community Councils
 - Borough and Bankside
 - Bermondsey
 - Rotherhithe
 - Walworth
 - Peckham
 - Camberwell
 - Nunhead and Peckham
 - Dulwich

(Note: All outstanding appointments will be referred to the first meeting of the respective committee or Community Council in the 2003/04 Municipal Year).

Standards Committee

13. That Council Assembly appoint the elected Councillors to serve on the Standards Committee:
- Six Councillors (including at least one member of each political group as defined by Local Government and Housing Act 1989 Regulation 8 Local Government (Committees and Political Groups) Regulations 1990)
14. That Council Assembly notes the four independent members (appointed in accordance with the Relevant Authorities (Standards Committee) Regulations 2001) and their date of retirement from office:
- a. Ian Powe - (until Constitutional Council May 2006)
 - b. Sir Keith Morris - (until Constitutional Council May 2006)

- c. Jean Sackur – (until Constitutional Council May 2005)
 - d. Barry Albin-Dyer - (until Constitutional Council May 2004)
15. That in accordance with Article 9(f) of the Constitution, the election of Chair and Vice-Chair takes place at the first meeting of the Standards Committee in the 2003/04 Municipal Year.

Urgency Committee

16. That Council Assembly agrees to next reconstitute the Urgency Committee, responsible for decision-making in the period between municipal elections and Constitutional Council (containing the Leaders of the two largest parties), in the 2005/06 Municipal Year.

Calendar

17. That Council agree the draft Calendar of Meetings (as set out in Appendix D), and fix dates for the following Council Assembly meetings:
- 25 June 2003
 - 23 July 2003
 - 17 September 2003
 - 29 October 2003
 - 26 November 2003
 - 28 January 2004 (Council Tax Base and Normal Business)
 - 18 February 2004 (Council Tax)
 - 24 March 2004
 - 28 April 2004
 - 12 May 2004 (Mayor-making)
 - 26 May 2004 (Constitutional Meeting)

Appointments to Local Government Association General Assembly

18. That Council Assembly makes appointments to the LGA General Assembly (see Appendix E).

Other Appointments to Joint Committees / Outside Bodies

19. That the Council Assembly notes the Executive and Standards Committee will make appointments to all other outside committees and bodies for the Municipal Year 2003/04, as required by Part 3J of the Constitution.

BACKGROUND INFORMATION

20. On 29th May 2002 Council Assembly considered a report entitled 'New Constitutional arrangements' which approved the proposals for executive arrangements and a new constitution. The constitution has been subsequently amended during the year. The recommendations in this report reflect the status quo based on provisions in this amended constitution.

KEY ISSUES FOR CONSIDERATION

Election of Leader and appointment of Executive

21. The Council is required to elect a Leader of the Council. The Leader will present a report on how the executive functions of the Council will be exercised, subject to the approval of Council Assembly.
22. The elected Leader must then proceed to nominate his/her Executive for appointment by Council Assembly. In accordance with the Constitution this can consist of a minimum of 2 and up to a maximum of 9 nominated members, whose portfolios are determined and allocated by the Leader. In 2002/03 the Leader determined and allocated the following portfolios:
 - Deputy Leader
 - Finance
 - Health and Social Care
 - Regeneration and Economic Development
 - Housing
 - Environment & Transport
 - Community Support & Safety
 - Service Delivery
 - Education, Youth & Leisure

Proportionality

23. 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. When making appointments, Council Assembly appointing Committees, and Committees appointing Sub-committees have a duty to give effect to the following principles, as far as is reasonably practicable.
 1. That not all the seats on a Committee or Sub-Committee are allocated to the same political group;
 2. That the majority group must have the majority of seats on each Committee or Sub-Committee;
 - *As no one group has an overall majority on the Council, this principle is not relevant to the current allocation*
 3. Subject to (1) and (2) 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
 - *The ordinary committees are Appointments, Development Control, and Licensing. The total number of seats on these 3 committees must be allocated as proportionately as is reasonably practicable.*

- *The Overview and Scrutiny Committees is appointed under section 21 of the Local Government Act 2000, and is no longer an ordinary committees.*
4. Subject to (1) to (3) 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.
- *This rule applies to all committees, sub-committees and joint committees, except for Standards Committee and Community Councils.*

Regulatory and Other Committees.

24. The regulatory and other Committees are the “ordinary committees” of the Council to which paragraph 23.3 applies. These meetings are as follows:
- Appointments Committee
 - Licensing Committee
 - Planning Committee
25. The total number of seats on the three ordinary committees is allocated first. The total seats are then divided between the three committees to give each committee as proportionate an allocation as is possible within the overall limit.
26. In the existing arrangements, these are all eight-member committees for which the most proportionate total arrangement for the total of 24 seats is 11 Liberal Democrat, 11 Labour, and 2 Conservative. The most proportionate allocation for the individual committees to achieve the required total is:

Committee Places		L Dem	Lab	Cons
Committee 1	8	4	4	0
Committee 2	8	4	3	1
Committee 3	8	3	4	1
Total	24	11	11	2

It does not matter which of the three ordinary committees has which proportion. At the last Constitutional Council meeting in May 2002, the following committees were agreed with the respective allocation of places:

- Committee 1 – Appointments Committee
- Committee 2 – Planning Committee
- Committee 3 – Licensing Committee

Overview and Scrutiny Committee

27. Overview and Scrutiny Committee and its sub committees are not “ordinary” committees and are each considered individually for the purposes of proportionality.

The most proportionate allocation for a co-ordinating Overview and Scrutiny Committee of 8 Members is:

Committee Places		L Dem	Lab	Cons
Overview & Scrutiny	8	4	3	1

Other Sub-Committees

28. Sub committees are not “ordinary” committees and are each considered individually for the purposes of proportionality. So far as it is reasonably practicable to do so, the seats on each committee should bear the same proportion to the number of the seats on the committee, as is borne by the number of members of that group to the council as a whole.
29. The most proportionate allocation will depend on the number of members of the committee. A table below shows the most proportionate arrangement for individual committees:

Committee Size	Lib Dem	Labour	Cons.
Nine Members	4	4	1
Eight	4	3	1
Seven	3	3	1
Six	3	3	0
Five	2	2	1
Four	2	2	0

30. The most proportionate composition of an individual committee of six members has 3 Liberal Democrat and 3 Labour members. If, as has happened in the past, all scrutiny committees are to have six members, no Conservative members would have a place on any scrutiny sub-committee, which would mean that the rules on proportionality produced a disproportionate result overall. Members have varied the number of members on committees to prevent that.
31. Members can always agree an allocation that is disproportionate, provided no Member votes against. For example, Members could, provided there is no dissent, agree that the membership of the overview and scrutiny committee/s and/or sub-committees should be proportionate overall.
32. The constitution specifies that the appointment and composition of themed scrutiny committees / sub-committees be considered by the first meeting of the Overview and Scrutiny Committee.

Appointments to Seats

33. Section 16(1) of the Local Government and Housing Act 1989 provides that it is the duty of the authority or committee so to exercise their power to make appointments to a body 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”

34. 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 the discretion to allocate seats as they wish, including to a member of another group.

Standards Committee

35. It is recommended that Standards Committee should comprise six 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 to the committee vests in Council Assembly. Not more than one Executive member may serve on the Standards Committee.
36. At least 25% of the Committee's membership must be independent. Council Assembly has previously agreed that the term of office for independent members be three years, with one independent member retiring each year and that independent members serve a maximum of two terms. The initial terms for each independent member was determined at random with one serving for one year, one serving for two years, and one serving for three years.
37. At Council Assembly on the 30th April 2003, the following membership was confirmed (the end of the current terms of office is shown in brackets):
- Ian Powe - until Constitutional Council May 2006
 - Sir Keith Morris - until Constitutional Council May 2006
 - Barry Albin-Dyer - until Constitutional Council May 2004
 - Jean Sackur - until Constitutional Council May 2005

Council Assembly is asked to note these appointments. Because independent members serve on the Committee, the appointment of Chair and Vice-Chair is reserved to the first meeting of the Committee.

Urgency Committee

38. It is recommended that the Urgency Committee constituted to function during the interim period between the municipal election and the first meeting of the Council Assembly (Constitutional Council) be next formed in the Municipal Year 2005/06.

Reserve Members

39. Council Procedure Rule 2.6(2) applies to Reserve Members for the Councillor Members of a Committee:
- Each political group is entitled to have a number of reserves, being one fewer reserve than they have seats on the Committee, subject to a minimum of one.

Appointment of Chairs and Vice-Chairs

40. With the exception of 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. (See recommendations 11 and 12).

Draft Council Calendar

41. A calendar of Council meetings for 2003/04 Municipal Year has been drafted and is shown at Appendix C. In respect of all meetings apart from Council Assembly this calendar is subject to amendments, additions and cancellations. Revised details of meetings will be sent to Members monthly. The dates proposed for Council Assembly meetings are included in the draft and Council Assembly is asked to fix these, in accordance with the relevant statutory provision.

Appointments to Local Government Association General Assembly

42. Council Assembly is asked to appoint 4 representatives to the Local Government Association (LGA) General Assembly and allocate 5 votes amongst the representatives. The LGA encourages local authorities with 3 or 4 representatives to allocate one of positions and votes to minority group leaders.

Appointments to Outside Bodies & Joint Committees

43. Government Guidance states that appointments to outside bodies and joint committee are local choice functions and the Executive should make such appointments as they relate to functions which are the responsibility of the executive (e.g. housing, education, social services, regeneration, etc.). Council Assembly agreed in 2002 that appointments to outside bodies, where they are not a function of the Executive, should be the responsibility of Standards Committee.
44. A register of all appointments made to outside bodies is held in Constitutional Support Unit detailing the terms of office of each appointment and which Chief Officer had been designated to provide support to the Council's appointee. (Relevant constitutions are available on request).

Establishment and appointment of Working Parties, Panels and Boards

45. The Executive will consider the establishment and appointment of Working Parties, Panels and Boards where the function falls within the responsibility of the Executive (e.g. housing, education, social services, regeneration, etc.).

Background Papers

Constitutional Issues 2002/03

Held At

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List of Appendices

Appendix A -	Audit Trial
Appendix B	Appointments of Political Group Leaders, Deputies and Whips
Appendix C -	Appointments of Regulatory and Other Committees
Appendix D -	Draft Calendar 2003/04
Appendix E -	LGA General Assembly Appointment

APPENDIX A

Audit Trail

Lead Officer	Deborah Holmes, Borough Solicitor & Secretary	
Report Author	Ian Millichap, Constitutional Support Manager (Executive) Kevin Flaherty Constitutional Support Officer	
Version	Final	
Dated	09.05.03	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments Included
Borough Solicitor & Secretary	Yes	Yes
Executive Member	N/A	
Date final report sent to Constitutional Support Services	9th May 2003	