

<b>Item No.</b> 4.	<b>Classification:</b> Open	<b>Date:</b> May 19 2005 May 25 2005	<b>Meeting Name:</b> Standards committee Council assembly
<b>Report title:</b>		Constitutional Review	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Chief Executive (Borough Solicitor)	

## RECOMMENDATIONS

*Note: This report has been circulated to both standards committee and council assembly. It sets out a number of areas that will initially be considered by standards committee. The recommendations of standards committee will be circulated to all members.*

1. That council assembly considers any recommendations of the standards committee in respect of the following areas:-
  - Policy framework (*see paragraphs 10 -11*)
  - Council assembly procedure rules (*see paragraphs 13 -19*)
    - New public question time and deputation procedure rules
    - Members amendments and questions
    - Adjournment debates
  - Community councils (*see paragraphs 20 - 29*)
  - Livesey ward voting rights on planning issues (*see paragraphs 28 - 29*)
  - Committee and community council procedure rules
    - Reserves (*see paragraphs 30 - 31*)
  - Access to Information Procedure rules and Freedom of Information Act 2000 (*see paragraphs 32 - 34*)
  - Financial Standing Orders (*see paragraph 35 and appendix 4*)
  - Scrutiny (*see paragraphs 36 – 38*)
  - The role of Mayor (*see paragraphs 39 – 45*)
  - Member involvement in staffing issues (*see paragraph 46*)
  - Executive issues (*see paragraphs 47 – 52*)
  - Licensing committee (*see paragraph 53*)
2. That the technical changes and corrections to the constitution outlined in appendix 3 be approved.
3. That arising from recommendations 1 – 2, officers be authorised to make any consequential amendments and cross-referencing amendments to the constitution.

## **RECOMMENDATION FROM THE DIRECTOR OF FINANCE**

4. That council assembly agree the technical amendments arising from legislative and governmental regulations and changes in the council's financial procedures. *(see paragraph 35 and appendix 4)*

## **BACKGROUND INFORMATION**

### **Constitution and role of standards committee**

5. The terms of reference of standards committee include specific responsibility for the oversight, review and recommending amendments to the constitution.
6. The standards committee has a duty to monitor and review the operation of the constitution to ensure that the aims and principles of the constitution are given full effect. The purpose of the constitution is to:
  - i) enable the council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
  - ii) support the active involvement of citizens in the process of local authority decision-making;
  - iii) help councillors represent their constituents more effectively;
  - iv) enable decisions to be taken efficiently and effectively;
  - v) create a powerful and effective means of holding decision-makers to public account;
  - vi) ensure that no one will review or scrutinise a decision in which they were directly involved;
  - vii) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
  - viii) provide a means of improving the delivery of services to the community.
7. The existing constitution was adopted at council assembly (constitutional meeting) May 26 2004 and subsequently amended on December 8 2005.

### **Timetable for agreeing constitutional changes**

8. The timetable for agreeing constitutional changes necessary to amend the constitution is set out below:

Table 1 - Timetable

Meeting	Date	Action
Standards committee	May 19 2005	To consider proposed changes, considered at meeting of political groups whips.
Council assembly (Constitutional meeting)	May 25 2005	To consider recommendations of the standards committee and agree changes to constitution.

**KEY ISSUES FOR CONSIDERATION**

9. The key constitutional issues and recommendations proposed are set out in the sections below.

**Policy framework**

10. The Local Government Act 2000 introduced a budget and policy framework, which sets out a number of specified plans and strategies of the local authority for adoption or approval by council assembly. Most of the plans and strategies are set out in regulations, for others regulations provide that the local authority can specify other plans or strategies (statutory or non-statutory) for inclusion in the policy framework. The current policy framework was agreed in May 2002, when the council first introduced executive arrangements.<sup>1</sup>
11. Since that time there has been government advice on reducing the number of reports that councils need to produce as part of an initiative to reduce bureaucracy. As a result officers have proposed some alterations to the policy framework to bring it up to date. There are some pending changes arising from "Every Child Matters". Primary legislative basis provided by Section 17 of the Children Act 2004 will require all councils from 1 April 2006 to have a Children and Young Persons Plan. This plan will bring together all the plans and strategies currently in the policy framework dealing with children, including the education development plan, school organisation plan and early years and childcare development plan. Final regulations and guidance are still awaited from government. It is anticipated that this new plan will form part of the policy framework and that council assembly will consider it in March 2006.

Table 2 – Recommended changes to the policy framework

No.	Current Item	Recommendation	Comment
1.	Policy on community councils	No change	In May 2002, council agreed that this matter should form part of the policy framework.
2.	Corporate plan	No change	This plan is required by

<sup>1</sup> The current policy framework is set out in paragraph 5 of the matters reserved to council assembly, page 37 of the constitution.

No.	Current Item	Recommendation	Comment
			statute to be approved by council assembly.
3.	Community strategy	No change	This plan is required by statute to be approved by council assembly.
4.	Crime and disorder strategy	No change	This plan is required by statute to be approved by council assembly.
5.	Southwark plan (Unitary development plan)	No change	This plan is required by statute to be approved by council assembly.
6.	Early years and childcare partnership strategic development plan	No change	Although not required by statute to be approved by council assembly, this plan has been included in the policy framework since the initial adoption of executive arrangements.  Likely to be affected by "Every Child Matters" (see paragraph 11)
7.	Education development plan	No change	This plan is required by statute to be approved by council assembly.  Likely to be affected by "Every Child Matters" (see paragraph 11)
8.	Local transport plan	Delete	Not applicable as this is the responsibility of the Greater London Authority.
9.	Neighbourhood renewal strategy	No change	In May 2002, council agreed that this matter should form part of the policy framework.
10.	School organisation plan	No change	Although not required by statute to be approved by council assembly, this plan has been included in the policy framework since the initial adoption of executive arrangements. This plan requires approval every 3 years, unless there is a significant change.  Likely to be affected by

No.	Current Item	Recommendation	Comment
			"Every Child Matters" (see paragraph 11)
11.	Youth justice plan	No change	This plan is required by statute to be approved by council assembly.
12.	Capital investment strategy	No change	This strategy is required to be approved by council assembly.

### **Council assembly procedure rules**

13. Last year the council assembly procedure rules were reviewed and a number of changes agreed including - changes to the guillotine to include the time taken to consider deputation, allowing each political group to discuss one motion each at the fall of the guillotine, reducing the number of meetings and ensuring that more members were given the opportunity to have an adjournment debate. A meeting between officers and chief whips from each of the political groups was held on February 22 2005 to review the operation of the council assembly procedure rules in the last year and make recommendations on improvements. The recommended changes in this section of the report arise from these discussions and reflect those areas where there was a political consensus for a review.
14. The main areas discussed are as follows:
- New public question time and deputation procedure rules
  - Members amendments and questions
  - Adjournment debates
15. The recommendations and reason for the changes are set out below in paragraphs 16 to 19 of this report.

#### New public question time and deputation procedure rules (Council assembly procedure rule 3.6 and 3.7)

16. At standards committee in November 2004, members suggested that officers look at the format of public question time and deputations procedure rules. Officers have now done this and have proposed revised procedure rules, which are set out in Appendix 2. A copy of the old rules is attached as Appendix 1. Although the rules are largely based on the current versions, they have been updated to introduce a common format and make some changes to facilitate the efficient conduct of business. The principal changes are:
- Introduce a clear definition of the scope of deputations, including a 6 month rule on deputations similar to previous ones considered.
  - In public questions, introduces a rule that only the named questioner who submitted the question may ask the supplemental question at the meeting. There have been occasions when the named questioner has not been able

to attend the meeting but has sent a representative or an individual has arrived unannounced who have then asked the supplemental question. This practice is not applied to member's question time and it is felt that the two should be consistent. This change seeks to provide greater clarity on the ownership of questions.

- Introduces a notice period for motions and amendments on debates relating to issues not on the agenda. This is to allow greater transparency and provide all members with advance notice of issues to be debated. This will also provide an opportunity for officer advice to be provided. The revised clause proposes a four clear working days deadline for motions and a one clear working day deadline for amendments.
- Clarifies the application of the mini-guillotine rule on debates so it applies to all motions taken after deputations. The debate is limited to a period of 15 minutes only with reduced speaking times for the mover and other speakers of 3 and 2 minutes respectively. This is based on provisions already in the constitution.

#### Recommendation 1

That the new format for public question time and deputations procedure rules. as set out in Appendix 1 be agreed.

#### Note

If recommendation 1 is agreed, then a common format should be reflected in both the executive and committee and community council procedure rules.

**References** - *Executive procedure rule 2.10, committee and community council procedure rule 4.*

#### Member's amendments and questions

*(Council assembly procedure rule 3.10 (1) and 3.11 (2))*

17. The rules governing amendments and questions would benefit from greater clarity in relation to how many amendments and questions members may move/ask and second per item. Officers have proposed a change to the rules to this effect.

#### Recommendation 2

That the following procedure rules be amended to clarify the number of motions/amendments that be submitted on any item of business:

Submission of members' motions on notice 3.10 (1) (Page 114)

Notice of every member's amendment to a motion shall be delivered at least one

## Recommendation 2

clear working day before the day of the meeting at which the motion is to be moved, at the office of the borough solicitor. **Each member is limited to proposing one and seconding one amendment per business item.** All amendments must be accompanied by a named mover and seconder by this deadline. Amendments shall be placed on the agenda in order of receipt. Any subsequent changes can only be agreed with the consent of the meeting.

### Notice for Motions and Amendments on reports from the executive and committees 3.11 (2)

#### Notice required for amendments

Notice of every member's amendment for a report from the executive, committee or officer shall be given in writing, signed by the member, and delivered at least one clear working day before the day of the meeting at which the motion is to be moved, at the office of the borough solicitor. **Each member is limited to proposing one, and seconding one, amendment per item.** Amendments shall be placed on the agenda in order of receipt.

#### Notice required for questions on reports

3. Notice of all questions on reports shall be given in writing, signed by the Member and delivered at least one clear day before the day of the meeting at which the motion is to be moved, at the office of the borough solicitor (i.e. by Midnight of the Monday in the week of an ordinary Wednesday council assembly meeting). **Members are limited to one question per item.**

### Adjournment Debates

(Council assembly procedure rule 3.12)

18. The adjournment debate was introduced by council assembly in May 2003 and has been in operation for the last two years. Although open to all councillors, the Mayor and members of the executive opted not to take part. The debates provide opportunities for non-executive councillors to raise ward issues. Under the current arrangements at the conclusion of council business 3 members have an adjournment debate of 10 minutes each, so a maximum of half an hour allowed. A member can make a speech for 5 minutes on a question of importance to their wards and within the council's powers. The relevant executive member responds to the issue raised but no vote can be taken. As there are no votes and no quorum requirement there is no need for other members to stay.
19. Growing concerns from officers and members that adjournment debates contributed to the late finish of meetings coupled with the dwindling number of members staying for this section of the meeting resulted in the whips taking the view that this provision was no longer required.

### Recommendation 3

That the practice of hearing adjournment debates is discontinued and council assembly procedure rule 3.12 be deleted from the constitution.

#### **Community councils – constitutional changes**

20. The executive on March 8 2005 considered a report on “Improving Southwark’s Community Councils”. The executive recommended that the necessary constitutional changes be made to put this into effect. These are set out in the table 3 below. These changes to the roles and functions of community councils are driven by a number of factors including:

- The overall workload of the council and related performance issues
- The desire to achieve locally based decision-making, accountability and transparency
- The capacity of community councils and the balance between their increasing community engaging role and community interest in certain decisions
- Maintaining established expectations in particular around devolved funding
- Changing legislative framework

21. The existing decision-making functions cover four areas:

- Planning applications
- Local traffic management
- Appointment of primary school governors
- Cleaner, Greener, Safer projects (the devolved capital programme)

Licensing applications were removed in February 2005 following the implementation of new legislation.

Table 3 – Recommended amendments to community councils delegations

	Constitutional reference.	Subject	Current Position	Proposed change	Recommendation
1	<p>Article 10.02 (b) – Role and functions</p> <p>Part 3H Matters Reserved to Community Councils(Page 108)</p>	<p>Schools / Voluntary Bodies Appointments</p>	<p>Community Councils currently appoint school governors to <b>primary schools</b>. The extension of this function to other school categories is logical and relatively straightforward and is supported by the governor development unit in the education department.</p>	<p>It is proposed to extend appointments to cover nursery, secondary and special schools. This change complements the introduction of school communities based on community council areas and the coherent approach to service delivery contained in ‘Every Child Matters’. The additional categories of schools will need to be managed differently:</p> <p><b>Nursery Schools</b> - These appointments would be handled the same way as existing community council appointments based on the geographical location of the school.</p> <p><b>Secondary Schools</b> - Because of the wider catchment areas for secondary schools more than one community</p>	<p>Amend current wording to read as follows:</p> <p>(Note – new text in <b><i>bold/italics</i></b>)</p> <p><b><u>Education Functions (Executive)</u></b></p> <p><b><u>Decision-making</u></b></p> <p>18. Appointment of Local Education Authority school governorships to the governing bodies of <b><i>nursery, primary, secondary and special</i></b> schools, within the area of the community council, from among the list of suitable persons maintained by the governor development service in the education department.</p>

	Constitutional reference.	Subject	Current Position	Proposed change	Recommendation
				<p>council is likely to be interested in appointments. A method of inter-community council consultation is likely to be necessary about suitable candidates. Appointments would be likely to be made on the basis of the geographical location of the school.</p> <p><b>Special Schools</b> Can be managed as for secondary schools.</p>	<p><b><u>Consultation/Non decision making</u></b></p> <p><b><i>Consultation on secondary and special school governor appointments where appropriate</i></b></p>
2.	<p>Article 10.02 (b) – Role and functions</p> <p>Part 3H Matters Reserved to Community Councils (Page 108)</p>	Charities	<p>Community councils currently make no charities appointments.</p> <p>Currently the voluntary bodies appointments panel meets as vacancies arise for charity trustees. There are eight charities to which the voluntary bodies appointments panel appoints trustees.</p> <p>Standards committee</p>	<p>The lead community councils would make future appointments where there is an established geographical or historical basis.</p> <p>There would be no strict need to consult but it would be essential to have affected community councils participate in the nomination process e.g. publicity, presentations and generally encouraging</p>	<p>Insert new section:</p> <p><b><u>Charity Appointments (Non-Executive)</u></b></p> <p><b><u>Decision-making</u></b></p> <p><b><i>18. Appointment of trustees for charities within the area of the community council. Appointments will be made by the lead</i></b></p>

Constitutional reference.	Subject	Current Position	Proposed change	Recommendation
		<p>makes Borough Market appointments.</p> <p>Further information on the background to changes is set out in paragraphs 25 – 27.</p>	<p>wider community interest.</p> <p>It is recommended that the relevant lead community council make the nominations to the 8 charities. The lead community councils are set out in table 3 below. Individual councillors from Cathedrals, Chaucer, Riverside and Grange Wards would still need to nominate trustees for Borough Market.</p>	<p><b><i>community council.</i></b></p> <p><b><u>Consultation/Non decision making</u></b></p> <p><b><i>Consultation on charity appointments as appropriate.</i></b></p> <p>Notes</p> <p>1. New text is shown in <b><i>bold/italics</i></b>)</p> <p>2. Table set out in paragraph 27 will be reproduced in the constitution.</p>
<p>Article 10.02 (b) – Role and functions</p> <p>Part 3H Matters Reserved to Community Councils (Page 108)</p>	<p>Planning</p>	<p>Currently there are limited circumstances in which an application delegated to a community council can be referred up to the planning committee. These are (1), if the premise is located close to a community council boundary; and (2), if the meeting is unlikely to</p>	<p>Due to the need to improve performance on the handling of applications, the strategic director of regeneration in consultation with community council chairs should be able to decline to consider planning applications, in which case the applications would be automatically referred to</p>	<p>Insert new clause in main planning committee terms of reference and matters reserved as follows:</p> <p><b><i>To consider and determine all planning applications where any delay may prevent a timely decision being taken</i></b></p>

	Constitutional reference.	Subject	Current Position	Proposed change	Recommendation
			<p>achieve a quorum where councillors have received representations.</p> <p>Further information on the background to changes is set out in paragraphs 22 – 24.</p>	<p>planning committee.</p>	<p><b><i>in line with council and government performance targets. The strategic director of regeneration to determine, in consultation with the chairs of the relevant community councils.</i></b></p> <p>Renumber subsequent paragraphs</p> <p>(Note – new text in <b><i>bold/italics</i></b>)</p>

## **Improving the operation of the planning process at community councils**

22. The executive considered the role of planning at community councils. The strategic director of regeneration reported that the aim of devolving decisions on a range of planning applications to community councils is to achieve the full effective involvement of community councils and local people in that decision making. It was recognised that this needed to be achieved while meeting council and government performance targets for timely decision making: an area that has been a priority for improvement. Neither objective has been satisfactorily achieved.
23. Specific actions are being actively pursued to improve the position. However in order to allow for the most effective management of improvements on the performance targets, especially on major applications the strategic director of regeneration has proposed that, whilst the present delegation arrangements should be retained, community council chairs should be able to decline to consider planning applications, in which case the applications would be automatically referred to planning committee. The executive recommended this change and at a meeting of community council chairs on March 21 2005 this proposal was also supported.
24. The proposal requires an amendment to the formal delegation to community councils and planning committee. These are set to give effect to this change.

## **Charities**

25. The voluntary bodies appointments panel (VABP) meets as vacancies arise for either school governors or charity trustees. There is currently a small backlog of school governor appointments – a situation that could be eliminated by using community councils. VBAP would become redundant if both school governor and charity trustee appointments were made via community councils although individual councillors from Cathedrals, Chaucer, Riverside and Grange Wards would still need to nominate trustees for Borough Market.
26. There are eight charities to which the voluntary bodies appointments panel appoint trustees (Borough Market appointments are made by the standards committee). In all eight cases the eligibility and catchment area for nominees is well defined (using old parish or metropolitan borough boundaries). Lead community councils could make future appointments where there is an established geographical or historical basis. There would be no strict need to consult but it would be essential to have affected community councils participate in the nomination process e.g. publicity, presentations and generally encouraging wider community interest.
27. The 8 charities and the suggested lead community councils are as follows:

Table 4: Lead community councils for charity appointments

Charity	Lead Community Council	Affected Community Councils
Camberwell Consolidated Charities	Camberwell	Dulwich, Nunhead & Peckham Rye, Peckham, Camberwell
Christchurch United Charities	Borough & Bankside	Borough & Bankside, Walworth
Rotherhithe Consolidated Charities	Rotherhithe	Rotherhithe
St George the Martyr United Charities	Borough & Bankside	Borough & Bankside, Walworth
St Mary Newington United Charities	Walworth	Borough & Bankside, Walworth
St Olaves and Bermondsey United Charities	Bermondsey	Bermondsey, Rotherhithe
Court of Governors of St Saviour's and St Olave's Grammar School Foundation	Borough & Bankside	Borough & Bankside, Walworth
Surrey Docks Farm Trust	Rotherhithe	Rotherhithe

### Livesey ward voting rights on planning issues

28. Currently members of Livesey Ward can vote on planning applications in Peckham community council but not in Rotherhithe. This has led to difficulties on occasions reaching a quorum in Rotherhithe to consider planning applications. This could be overcome by allowing Livesey ward members to participate as voting members on planning matters only.
29. The issue was discussed by the community councils chairs at their meeting on the March 21 2005 and it was proposed that a change was required to the constitution to allow Livesey members voting rights on planning functions in both Peckham and Rotherhithe community councils.

#### Recommendation

That article 10.02 (a) on "Composition of community councils" be amended at the bottom of page 23 to read as follows:

Note: In respect of Livesey Ward members they shall serve as voting members on Peckham community council, ***as voting members on Rotherhithe community council in relation to planning functions only*** and as non-voting members ***for all other matters*** on Rotherhithe community council.

(Note – new text in ***bold/italics***)

## Committee and community council procedure rules - Reserves

*(Committee and community council procedure rule 2.2(2))*

30. At present all appointments to and resignations from committees must be submitted in writing 5 clear working days before the day of the meeting before any appointments can become effective. At the meeting with the group whips in February 2005 the idea that this rule be relaxed in relation to reserves was discussed. The relaxation would allow for greater flexibility when calling upon reserves. However this has to be balanced against other aspects of good governance, especially the transparency and accountability of decision-making. It is important that the public know in advance who the decision-makers are likely to be, so they can engage in the democratic process e.g. circulating information or making representations.
31. Officers have set out a number of possible options in the following table. However officers recommend that there should be no change.

Table 5 – Reserves

No.	Proposed change	Issues for consideration
1.	No named reserved.  One clear day before the day of the meeting the whips would confirm the names of any reserves to be used with the constitutional team.	Currently the membership of a committee can be changed just prior to agenda dispatch, this allows for the new membership to be shown on the summons. However, this proposed change would not allow for public notification of the revised committee membership and could therefore reduce public access to make representations to the committee membership. Members would still be required to have had any specific training e.g. planning issues.
2.	A mixture of named and floating reserves.  One or two named reserved and a small pool of unnamed reserves that could be called upon if the named reserve was not available. One clear day before the day of the meeting the whips would confirm the names of any reserves to be used with the constitutional team.	This change would still have the same issue with public access and members training as outlined above.
3.	Increase the number of named reserves.	If the five day rule were still applied to the increased reserve list this would enable the change in membership to be notified to the public.
4.	Reduce notice period for changes to reserves	This change would still have the same issue with public access and members

No.	Proposed change	Issues for consideration
		training
	<b>Recommendation</b>	Because of the issues identified above, officers are recommending no change

### Access to Information Procedure Rules and Freedom of Information Act 2000

32. The Freedom of Information Act 2000 came in effect for local authorities from January 1 2005. Officers have reviewed the provisions in the constitution relating to access to meetings and information. The table below sets out the necessary changes.

Table 6 – Freedom of Information Constitutional Changes

No.	Subject	Constitution reference	Page No.	Recommendation
1.	Councillors rights and duties	Article 2.03 (b)	4	Insert new point 2.03 (b) (iv) – “Councillors have the right to submit freedom of information requests.”
2.	Citizens and the council	Article 3.01 (b)	6	Insert new point 3.01 (b) (iv) and re-number subsequent paragraphs:  “to submit freedom of information requests.”
3.	Officers	Article 12.03 (f)	30	Insert new section 12.03 (k):  “(f) <b>Proper officer for freedom of information.</b> The Monitoring Officer will act as the ‘qualified person’ for the purposes of freedom of information requests and application of the public interest tests.”
4.	Access to information	Access to information procedure rules	143	Insert new clause 21.04 –  “Members can make a request under freedom to information and should state as such in their request.”

33. The existing framework concerning access to information in local government was established in 1985 through amendments to the Local Government Act 1972. For the purpose of committee meetings, unless the information falls into one of the 15 definitions of exempt information then it should be open to the

public. Under the Freedom of Information (FOI) Act 2000, implemented on January 1 2005, any disclosure prohibited under other statutory instruments would be considered under FOI rules. Under the FOI act all information is considered public unless it falls under one of the 23 exemptions, 15 of which have qualified and require a public interest test.

34. Following the publication of a consultative document called “Local Authority Access – A consultation”, the council is awaiting regulations proposing amendments to the current access to information exemptions. These amending regulations have not yet being laid before Parliament. One of the aims of this change will be to bring specific local government access to information rules in line with the Data Protection Act 1998 and the Freedom of Information 2000. Officers will report later in the year when further advice is available.

### Financial Standing Orders

35. The director of finance has recommended a number of revisions that are required to financial standing orders within the Part 4 rules section of the constitution. The amendments are set out in appendix 5. The changes are recommended to standards committee and council assembly for approval. The changes are summarized below:

Table 7: Summary of changes to Financial Standing Orders

No.	Section	Summary of change
1.	<b>Section 1 Financial Administration</b>	(e) Fees and Charges – update to reflect Individual Decision Making and to ensure consistency between Financial Standing Orders, Corporate Income Policy and budget manual  (f) Debt Write Offs – update to reflect Individual Decision Making
2.	<b>Section 3 Preparation of the Revenue Budget</b>	(b) Strategic Director Responsibilities – update to clarify responsibilities
3.	<b>Section 5 Monitoring and Control of the Revenue Budget</b>	(b)(i) & (ii) Monitoring – update to clarify responsibilities (c) Virements – update to clarify virements to be reported to Executive (f) Accuracy of Accounts – update to reflect up-to-date statutory position
4.	<b>Section 7 Preparation of the Capital Programme</b>	(a) Capital Strategy – new section to reflect current position (b) Capital Programme – update to clarify process (d) Capital Schemes – update to clarify

No.	Section	Summary of change
		process
5.	<b>Section 8 Monitoring and Control of the Capital Programme</b>	(b) Reporting Requirements – update to clarify process (e) Accuracy of Accounts – update to reflect up-to-date statutory position
6.	<b>Section 9 Leases</b>	(b) Consent – update to clarify process
7.	<b>Section 10 Schools Fair Funding</b>	(c) Scheme for Financing Schools – new section to reflect current position
8.	<b>Minor updating and clarification of terminology</b>	Replace ‘Finance Director’ with ‘Director of Finance’ throughout  Sections 1(c)(ii), glossary

### Scrutiny

36. The head of overview and scrutiny has proposed a number of changes to the overview and scrutiny procedure rules. These proposals relate to the call-in of executive decisions and seek to reflect current practice. The first change inserts a new section formalizing the requirement that the head of overview and scrutiny must inform members within one day if there are concerns about the validity of a call-in, and to take advice from the monitoring officer as necessary.
37. Other changes are proposed in order to introduce more flexibility in the timing of overview & scrutiny committee meetings when considering call-ins than is currently permitted. Care has been taken to make allowance for those occasions when a prompt review is required where a decision needs to be implemented in a short timescale. The timings are also adjusted to reflect the 5 day call-in period agreed last year.
38. The changes to clause 19 of the overview and scrutiny procedure rules are set out in Appendix 5.

### The role of Mayor

39. Schedule 2 of the Local Government Act 1972 provides that every London borough shall be a council consisting of a mayor and councillors. Where a London borough is operating executive functions, which involve a leader and executive, as is the case with this authority, the mayor and his deputy shall not be a member of the executive.
40. The mayor is elected annually by the council from among the councillors and the election of the first business transacted at the annual meeting of the council.

41. Once appointed the mayor has a statutory right to appoint a deputy from among the councillors to perform the duties of the mayor in his absence except the chairing of meetings of the council where he must be specifically appointed by the meeting to do so.
42. The role of the mayor in authorities with executive arrangements involving leader and executive are two folds. The first is to chair meetings of the council and the second is to perform the ceremonial role.
43. The Government's paper on Modular Constitutions for English Local Authorities suggests in article 5 that the function of the mayor in borough with executive arrangement involving leader and executive, should be as follows:
  1. to perform the ceremonial role
  2. to chair the meetings of the council with the following responsibilities: -
    - a. to uphold and promote the purposes of the constitution, and to interpret the constitution when necessary;
    - b. preside over meetings of the council so that its business can be carried out effectively and with regard to the rights of councillors and interest of the community
    - c. to ensure that the council meetings is a forum of debate of matters of concern to the local community at which members who are not on the executive, who do not sit on policy committee or hold committee chairs are able to hold the executive to account.
    - d. To promote public involvement in the council's activities
    - e. To be the conscience of the council; and
    - f. To attend such civic and ceremonial functions as the council and he/she determines appropriate.
44. There is a suggestion in this paper that other leading councillors could perform the ceremonial role on an area of functional basis and whether this role is performed entirely by the mayor should be a matter of local choice.
45. Since the mayor 's only legal duty is to chair meetings of the council, it is possible to separate the two roles. However, since the provisions of the Local Government Act only permits one mayor and deputy to be appointed, the person appointed to perform the ceremonial role could not call him or herself mayor and would not be able to wear the robes and chains normally symbolised with the office of mayor. Whilst this would not prevent the office holder from performing the role, it may cause some disappointments in the community as the public expects to see the person attending an official engagement on behalf of the council to be the mayor wearing the robes and chains of office.

### **Member involvement in staffing issues**

46. Standards committee on March 7 recommended a number of changes to the member/officer protocol in relation to member involvement in staffing issues. The changes aim to provide greater clarity on this area. The proposed changes are set out for council assembly's consideration in appendix 3.

## **Executive Issues**

47. There two issues identified here relating to the flexible operation of the constitution to ensure the expeditious management of business. Officers have set out these changes in appendix 3. Standards committee is asked to recommend these to council assembly for approval.

### **Appointment of replacement executive members during the year**

48. Article 7 provides that where an executive member ceases to be a member of the executive during the course of the municipal year the leader has the discretion as to whether or not to appoint a replacement. However the constitution does not allow the leader to review the allocation of responsibilities during the municipal year. Currently any changes have to be agreed by council assembly, as the allocation of responsibilities in Part 3 of the constitution is reserved to council assembly. This lack of flexibility is not conducive to good governance and constrains the executive in its ability to respond to changes in a timely and expeditious fashion. In the past the need to re-allocate responsibilities has coincided with a meeting of the council assembly.
49. Officers are recommending a change in the constitution to allow the leader to both appoint replacement executive members and make changes between portfolios in the course of the year. The leader would communicate any changes to the borough solicitor who would then circulate a formal notification to all members. The changes would take effect in 5 clear working days. The change would be reported to the next council assembly meeting.
50. This change is also in line with statutory guidance on the constitution, which advises that the constitution is a flexible document and it should not be necessary to revise the constitution to undertake a particular task.

### **Establishment of executive committee**

51. Statutory guidance permits the establishment of executive committees comprising of executive members to deal with particular areas of work. Such bodies can exercise executive responsibilities and would be subject to the same provisions on decision-making as the full executive, including forward plan, notice of meetings and call-in.
52. Currently the executive procedure rules in clause 1.3 (page 153) state changes to Part 3 on responsibility for functions should be agreed by council assembly, including delegations to executive committees. A change to this section is proposed to allow the full executive to establish sub-ordinate decision-making committees, where appropriate. This will increase flexibility and efficiency of decision-making. The scheme of delegation for individual executive member decision-making will not be affected by this change.

## **Licensing Committee**

53. The council agreed changes to the constitution to bring into effect the necessary changes to implement the new arrangements required by the Licensing Act 2003.

Some members have raised an issue regarding the role of the main committee and its sub-committees with regard to the consideration of policy issues. The current wording makes no differentiation between the roles of the committee and sub-committee. Currently both are able to consider licensing policy matters and individual applications. It is the view of officers that this should be amended to reserve the policy related responsibilities to the licensing committee. An amendment is proposed that would make policy matters the sole responsibility of the licensing committee. The change to Part 3 of the constitution on responsibility for functions is set out in appendix 3.

### **Other technical constitutional changes**

54. Officers have set out in appendix 3 a number of minor technical changes that have come to light though the year. Standards committee is asked to recommend these to council assembly for approval.

### **Effect of proposed changes on those affected**

55. The constitution has an important role in bringing decision-making closer to local people. The changes proposed in this report will assist in taking decisions more efficiently and effectively and providing the means of holding decision-makers to public account.

### **Resource implications**

56. These will be some financial implications if the council continues to have adjournment debates and does not change the current guillotine. This will mean that council assembly meetings will continue to finish between 11.00 – 12.00pm requiring the town hall to remain open and officers to be available for the duration of the meeting. The estimated cost at each meeting is approximately £220. There are no other specific financial implications within this report.

### **Consultation**

57. A meeting between chief whips and officers was held on February 22 2005, the comments are included in the report. This report has been circulated to all members of the council – any feedback will be reported to the committee. Community council chairs considered the proposals on dealing with planning applications at a meeting in March and were supportive of the approach recommended.

### **Legal implications**

58. The existing constitutional arrangements introduced from June 2002 were the result of the measures contained in the Local Government Act 2000. These changes were part of a wider policy to strengthen local authorities abilities to deliver effective community leadership, democratic renewal and improvement in services. The purpose was to create efficient, accountable and transparent governance that supports this wider agenda. Section 37 of the act requires each local authority to prepare, keep up to date and publicise a document known as the council's constitution. The constitution allocates responsibility within the local

authority and sets out how this will put into effect. The Council's constitution is based on the framework in the Modular Constitutions for English Local Authorities published in December 2002 by the government. However local authorities have choices about how they meet these requirements. Authorities are encouraged to use the framework to create accessible and meaningful instruments of governance. It is recognised that constitutions will be subject to review and will change as local authorities learn from the experience of operating new constitutions.

59. The changes proposed in this report are consistent with statute, regulations and guidance.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Council Assembly – May 26 2004 – Agenda	Constitutional Team, Southwark Town Hall, Peckham Road SE5 8UB	Lesley John 020 7525 7225
Standards Committee April 25 2005 – Agenda	Constitutional Team, Southwark Town Hall, Peckham Road SE5 8UB	Lesley John 020 7525 7228
Southwark Constitution – Agreed by Council Assembly – May 26 2004	Constitutional Team, Southwark Town Hall, Peckham Road SE5 8UB	Lesley John 020 7525 7225

## APPENDICES

Appendix No.	Title
Appendix 1	Current public question time and deputation procedure rules – including advice on the proposed changes
Appendix 2	New public question time and deputation procedure rules
Appendix 3	Other Constitutional Technical Amendments
Appendix 4	Financial Procedure Rules Technical Amendments
Appendix 5	Proposed change to overview & scrutiny procedure rules

## AUDIT TRAIL

<b>Lead Officer</b>	Deborah Holmes, Borough Solicitor	
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<b>Version</b>	Final	
<b>Dated</b>	12.05.05	
<b>Key Decision</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Borough Solicitor	Yes	Yes
Director of Finance	Yes	Yes
<b>Executive Member</b>	No	No
<b>Date final report sent to Constitutional Team</b>		12.05.05

**CURRENT PUBLIC QUESTION TIME AND DEPUTATION PROCEDURE RULES**

<b>3.6 Public question time</b>	<b>3.7 Deputations</b>
<p>1. The time during which Public Questions shall be taken shall not exceed 30 minutes. It shall not be in order to move for an extension of this time limit. When the time limit has expired, any remaining written replies shall be taken as read. Public Question Time shall not be taken at the Annual (Mayor-Making), Annual (Constitutional) Meeting and the Ordinary Council meeting when the Council Tax is set.</p> <p>2. A resident or business ratepayer of the Borough may ask one written question (limited to 50 words) on any matter in relation to which the Council have powers. The question must be received nine clear working days in advance of the Council Assembly meeting by the Borough Solicitor &amp; Secretary</p> <p>3. Each question must provide the name and address of the questioner and name the Executive Member/Committee Chair to whom the question should be put.</p> <p>4. Questions shall be dealt with in the order in which they are received. A copy of each question shall be given to the Mayor and the appropriate Executive member/Committee Chair. The content of any answers shall be within the discretion of the appropriate Executive member/Committee Chair.</p> <p><b>Scope of questions</b></p> <p>5. The Mayor in consultation with the Borough Solicitor &amp; Secretary may reject a question if it:</p> <ul style="list-style-type: none"> <li>- is not about a matter for which the local authority has a responsibility or which affects the borough;</li> </ul>	<p>1. Requests for deputations from groups of people who have alternative means of expressing their views through recognised channels e.g. employees of the authority, trade unions representing staff employed by the authority etc. should not be entertained under this Rule. Deputations can only be made by a person or people resident or working in the borough.</p> <p>2. The deputation shall not concern approval or otherwise of a current planning or licensing application but may address any other issue within the direct responsibility of the Council, or where the Council could be reasonably expected to lobby on behalf of residents.</p> <p><b>Formalities to be observed in applying to be heard</b></p> <p>3. An application for a deputation to be heard shall be submitted by a representative of the deputation in writing to the Borough Solicitor &amp; Secretary no later than nine clear working days before the day of the Council Assembly meeting. The date and time of receipt of such requests will be recorded in a book kept for that purpose. Any written representations associated with a deputation should ideally be submitted at the same time as the request for a deputation and certainly no later than three clear working days before the day of the Council Assembly meeting.</p> <p><b>Written Deputations</b></p> <p>4. Subject to complying with 3.7(1) – 3.7(3), details of written deputations will be included on the agenda papers for the meeting of the Council Assembly.</p> <p>5. If the matter is not dealt with by Council Assembly, the matter shall be referred</p>

<ul style="list-style-type: none"> <li>- is defamatory, frivolous or offensive;</li> <li>- is substantially the same as a question which has been put at a meeting of the Council in the past six months;</li> <li>- requires the disclosure of confidential or exempt information;</li> <li>- concerns a planning or licensing application;</li> <li>- raises a grievance for which there are other established processes for resolution.</li> <li>- relates to an investigation (whether completed or no) by, or ruling of, the Standards Board for England, the Standards Committee or the Adjudication Panel, in so far as those comments relate to the behaviour or conduct of an individual Member or Members.</li> </ul>	<p>without debate to the relevant Executive Member who shall, after consideration, respond with an open reply to the sender.</p>
<p><b>Record of questions</b></p> <p>6. The Borough Solicitor &amp; Secretary will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.</p> <p>7. Copies of all the questions to be dealt with at the meeting, together with draft written answers, shall be circulated (in a suitable format) at the meeting and copies shall be available for members of the public and the press.</p>	<p><b>Maximum number of deputations to be heard</b></p> <p>6. Subject to (7) below, the maximum number of deputations in respect of an individual item shall not exceed two and not more than three deputations shall be considered at any one meeting of the Council Assembly. In the event that more than two requests for a deputation are received in respect of an individual item, those deputations to be reported will be determined on the basis of the order of the date and time received.</p> <p>7. If there are more than three items upon which deputations have been requested the deputations will be allocated on the basis of one deputation per item and in the order of the date and time received, until the maximum number of three is reached.</p>
<p><b>Asking the question at the meeting</b></p> <p>8. The Mayor will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.</p>	<p><b>Arrangements for attendance</b></p> <p>8. The Borough Solicitor &amp; Secretary shall arrange for the attendance of any deputation. In doing so s/he shall inform the applicants that the Council Assembly has discretion as to whether or not to receive the deputation.</p> <p><b>Procedures at Council Assembly Meetings</b></p> <p>9. (i) Motion in Respect of the Receipt of a Deputation –</p> <p>The Borough Solicitor &amp; Secretary shall report the request for the deputation to the Council Assembly. Thereupon, any Member may move, without prior notice being given: -</p> <p>(a) that the deputation be received at this meeting or a future meeting; or</p> <p>(b) that the deputation not be received; or</p> <p>(c) that the deputation be</p>

<p><b>Supplemental question</b></p> <p>9. A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 3.3(5) above.</p> <p><b>Written answers</b></p> <p>10. Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.</p> <p><b>Reference of question to the Executive or a committee</b></p> <p>11. Unless the Mayor decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Executive or the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.</p>	<p>referred to the most appropriate Committee/Sub Committee</p> <p>If and when seconded, any such motion shall be put to the vote without debate and, if carried, the relevant course of action will be taken.</p> <p>(ii) Composition of Deputation –</p> <p>The deputation shall consist of not more than six persons, including its spokesperson.</p> <p>(iii) Speech on Behalf of Deputation –</p> <p>Only one member of the deputation shall be allowed to address the Council Assembly, her or his speech being limited to 5 minutes</p> <p>(iv) Questions to the Deputation and Time Limit –</p> <p>Members of the Council may ask questions of the deputation, which shall be answered by their spokesperson or any member of the deputation nominated by her or him for up to 5 minutes at the conclusion of the spokesperson's address.</p> <p>(v) No Debate During Deputation –</p> <p>Members shall not debate any issues arising out of the deputation, or the item to which it relates, with any members of the deputation.</p> <p>(vi) Deputation to Withdraw from the Floor –</p> <p>As soon as questions under sub paragraph (iv) above have been concluded, the deputation shall withdraw from the floor of the Council Chamber to the public gallery where they may remain (subject to any resolution excluding attendance of the public).</p> <p>(vii) Debate, Motion and Amendments –</p> <p>If more than one deputation is to be heard in respect of one subject there shall be no debate until each deputation has been presented. At the conclusion of the deputation(s) the subject of the deputation shall then be open to debate by the Council Assembly. If the subject does not relate to a report on the agenda, Members may move motions and amendments without</p>
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	<p>prior notice.</p> <p>(viii) Debate on Deputations concerning reports on the Agenda –</p> <p>Having received the deputation(s) on a matter subject to a report on the agenda, the Mayor will seek consent of the meeting for that item to be brought forward for immediate consideration. A vote on this matter is to be taken without debate. In the event of this motion being carried the report may then be considered in accordance with Council Assembly Procedure Rule 1.6(b). If the motion is lost, the subject matter will not be debated until the relevant item is reached in the order of business.</p> <p>(ix) Subject of Deputation not on Agenda</p> <p>If the subject of the deputation does not relate to a report on the agenda, Members may move motions and amendments without prior notice. Debate on such motions and amendments shall be limited to 15 minutes. The mover of any such motion or amendment shall speak for a maximum of three minutes and the seconder and other speakers shall be allowed a maximum of two minutes.</p> <p>(x) Formal Communication of Council Assembly’s Decision –</p> <p>The Borough Solicitor &amp; Secretary shall, in writing, formally communicate the decision of the Council Assembly to the person who submitted the request for the deputation to be received.</p> <p>Deputations concerning licensing or development control applications</p> <p>10. Deputations or representations received concerning Licensing or Planning Applications will not be considered by Council Assembly. Any such representations received should be forwarded to the appropriate Proper Officer(s) for consideration as part of the formal consultation on such applications.</p>
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APPENDIX 2

NEW PUBLIC QUESTION TIME AND DEPUTATION PROCEDURE RULES –

<b>3.6 Public questions</b>	<b>3.7 Deputations</b>
<b>Which meetings consider public questions</b>	<b>Which meetings consider deputations</b>
<p>1. Public question time shall not be taken at the annual (Mayor-making), annual (constitutional) meeting and the ordinary council meeting when the council tax is set.</p>	<p>1. Deputations shall not be taken at the annual (Mayor making) or annual (constitutional) meetings.</p> <p><i>(option to add – ‘and the ordinary council meeting when the council tax is set.’)</i></p>
<b>Who may ask a public question</b>	<b>Who may request a deputation</b>
<p>2. The right to ask a public questions only applies to persons resident in the borough or business ratepayers.</p>	<p>2. Deputations can only be made by groups of persons resident in the borough or groups of business ratepayers.</p> <p><b>Composition of deputation</b></p> <p>3. The deputation shall consist of not more than six persons, including its spokesperson</p>
<b>Scope of questions</b>	<b>Scope of deputations</b>
<p>3. The Mayor in consultation with the borough solicitor may reject a question if it:</p> <ul style="list-style-type: none"> <li>- Requests to ask a question from individuals or groups of people who have alternative means of expressing their views through recognised channels e.g. employees of the authority, trade unions representing staff employed by the authority etc. should not be entertained under this rule.</li> <li>- is not about a matter for which the local authority has a responsibility or which affects the borough;</li> <li>- is defamatory, frivolous or offensive;</li> </ul>	<p>4. The Mayor in consultation with the borough solicitor may reject a deputation if it:</p> <ul style="list-style-type: none"> <li>- Requests for deputations from groups of people who have alternative means of expressing their views through recognised channels e.g. employees of the authority, trade unions representing staff employed by the authority etc. should not be entertained under this rule.</li> <li>- is not about a matter for which the local authority has a responsibility or which affects the borough;</li> <li>- is defamatory, frivolous or offensive;</li> <li>- is substantially the same as a deputation which has been put at a</li> </ul>

<ul style="list-style-type: none"> <li>- is substantially the same as a question which has been put at a meeting of the Council in the past six months;</li> <li>- requires the disclosure of confidential or exempt information;</li> <li>- concerns a planning or licensing application;</li> <li>- raises a grievance for which there are other established processes for resolution.</li> <li>- Relates to an investigation (whether completed or no) by, or ruling of, the Standards Board for England, the Standards Committee or the Adjudication Panel, in so far as those comments relate to the behaviour or conduct of an individual member or members.</li> </ul>	<p>meeting of the Council in the past six months;</p> <ul style="list-style-type: none"> <li>- requires the disclosure of confidential or exempt information;</li> <li>- concerns a planning or licensing application;</li> <li>- raises a grievance for which there are other established processes for resolution.</li> <li>- Relates to an investigation (whether completed or no) by, or ruling of, the Standards Board for England, the Standards Committee or the Adjudication Panel, in so far as those comments relate to the behaviour or conduct of an individual member or members.</li> </ul>
<p><b>Form of question</b></p>	<p><b>Form of deputation</b></p>
<p>4. A resident or business ratepayer of the borough may ask one written question (limited to 50 words) on any matter in relation to which the council have powers.</p> <p>5. Each question must provide the name and address of the questioner and name the executive member/committee chair to whom the question should be put.</p>	<p>5. Each deputation request must provide the name and address of the persons/group requesting the deputation and a brief summary of the subject matter of their request.</p> <p>6. Any written representations associated with a deputation should be submitted at the same time as the request for a deputation. <del>—and certainly no later than three clear working days before the day of the council assembly meeting.</del></p> <p>(Reason – allows members to consider the issue at time of agenda dispatch)</p>
<p><b>Deadlines</b></p>	<p><b>Deadlines</b></p>
<p>6. An application for a question to be considered shall be submitted in writing to the borough solicitor no later than nine clear working days before the day of the council assembly meeting. The date and time of receipt of such requests will be recorded in a book kept for that purpose and a copy of the question</p>	<p>7. An application for a deputation to be heard shall be submitted by a representative of the deputation in writing to the borough solicitor no later than nine clear working days before the day of the council assembly meeting. The date and time of receipt of such requests will be recorded in a book kept for that</p>

<p>will immediately be sent to the Member to whom it is to be put. Rejected questions will include reasons for rejection.</p>	<p>purpose. Rejected deputations will include reasons for rejection.</p>
<p><b>Agenda</b></p> <p>7. Questions shall be dealt with in the order in which they are received. Upon receipt a copy of each question shall be given to the Mayor and the appropriate executive member/committee chair. The content of any answers shall be within the discretion of the appropriate executive member/committee chair.</p>	<p><b>Agenda</b></p> <p>8. Deputations shall be dealt with in the order in which they are received.</p> <p>9. Subject to complying with the regulations herein, details of written deputations will be included on the agenda papers for the meeting of the council assembly.</p> <p>10. If the matter is not dealt with by council assembly, the matter shall be referred without debate to the relevant executive member who shall, after consideration, respond with an open reply to the sender.</p>
<p><b>Length of public question time</b></p>	<p><b>Maximum number of deputations to be considered at council assembly</b></p>
<p>8. The time during which public questions shall be taken shall not exceed 30 minutes. It shall not be in order to move for an extension of this time limit. When the time limit has expired, any remaining written replies shall be taken as read.</p>	<p>11. The time during which deputations shall be taken shall not exceed 30 minutes.</p> <p>12. The maximum number of deputations in respect of an individual item shall not exceed two and not more than three deputations shall be considered at any one meeting of the council assembly. In the event that more than two requests for a deputation are received in respect of an individual item, those deputations to be reported will be determined on the basis of the order of the date and time received.</p> <p>13. If there are more than three items upon which deputations have been requested the deputations will be allocated on the basis of one deputation per item and in the order of the date and time received, until the maximum number of three is reached.</p>

<b><u>Asking the question at the meeting</u></b>	<b>What happens at council assembly meetings</b>
<p>9. Copies of all the questions to be dealt with at the meeting, together with written answers, shall be circulated (in a suitable format) at the meeting and copies shall be available for members of the public and the press.</p> <p>10. The Mayor will invite the questioner to put their supplemental question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, the meeting will move onto the next item of business.</p>	<p>14. The meeting, without debate, shall decide whether to:-</p> <ul style="list-style-type: none"> <li>• receive the deputation at this meeting or a future meeting; or</li> <li>• not receive the deputation; or</li> <li>• referred the deputation to the most appropriate committee/sub committee.</li> </ul>
<p><b>Supplemental question</b></p> <p>11. A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in rule 3.3(5) above.</p> <p><b>Written answers</b></p> <p>12. Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.</p> <p><b>Reference of question to the executive or a committee</b></p> <p>13. Unless the Mayor decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the executive or the appropriate committee or sub-committee.</p>	<p><b>Speech on behalf of deputation</b></p> <p>15. Only one member of the deputation shall be allowed to address the council assembly, her or his speech being limited to 5 minutes</p> <p><b>Questions to the deputation and time limit</b></p> <p>16. Members of the council may ask questions of the deputation, which shall be answered by their spokesperson or any member of the deputation nominated by her or him for up to 5 minutes at the conclusion of the spokesperson's address.</p> <p>17. Members shall not debate any issues arising out of the deputation or the item to which it relates, with any member of the deputation.</p> <p><b>Deputation to withdraw from the floor</b></p> <p>18. As soon as questions have been concluded, the deputation shall withdraw from the floor of the council chamber to the public gallery where they may remain (subject to any resolution excluding attendance of the public).</p>

<p>Once seconded, such a motion will be voted on without discussion.</p>	
	<p><b>Motions and amendment arising from deputations</b></p>
	<p><b>Debate, motion and amendments</b></p> <p>19. If more than one deputation is to be heard in respect of one subject there shall be no debate until each deputation has been presented.</p> <p><b>Debate on deputations concerning reports on the agenda</b></p> <p>20. Having received the deputation(s) on a matter subject to a report on the agenda, the Mayor will seek consent of the meeting for that item to be brought forward for immediate consideration. A vote on this matter is to be taken without debate. In the event of this motion being carried the report may then be considered in accordance with council assembly procedure rule 1.6(b). Debate on any motions or amendments on the item shall be limited to 15 minutes. The mover of any such motion or amendment shall speak for a maximum of three minutes and the seconder and other speakers shall be allowed a maximum of two minutes. If the motion is lost, the subject matter will not be debated until the relevant item is reached in the order of business.</p> <p><b>Subject of deputation not on agenda</b></p> <p>21. If the subject of the deputation does not relate to a report on the agenda, members may move motions and amendments four working days before the meeting. Debate on such motions and amendments shall be limited to 15 minutes. The mover of any such motion or amendment shall speak for a maximum of three minutes and the seconder and</p>

other speakers shall be allowed a maximum of two minutes.

**Formal communication of council assembly's decision**

22. The borough solicitor shall, in writing, formally communicate the decision of the council assembly to the person who submitted the request for the deputation to be received.

OTHER TECHNICAL CONSTITUTIONAL CHANGES

No.	Issue / Constitution Reference	Current Position	Recommendation of Standards Committee	Comment
1.	Article 6.05 – Scrutiny – Role of overview & scrutiny committee	On page 12, article 6.05 (l) it refers to “health and scrutiny..”	On page 12, article 6.05 (l) should read “health <del>and</del> scrutiny..”	Typographical error.  Deleted text indicated with a strikethrough.
2.	Article 7.04 – The Executive – Other executive members  (Page 14 – 15)	Article 7.04 provides that where an executive member ceases to be a member of the executive during the course of the municipal year the leader has the discretion as to whether or not to appoint a replacement. It does not allow the leader to review the allocation of responsibilities during the municipal year.	<p>Page 15 - Add new paragraph at end of 7.04:</p> <p>“The leader has the discretion to make changes between portfolios during the course of the municipal year. The leader will provide a written record of any changes to the borough solicitor who would then circulate a formal notification to all members and include in part 3 of the constitution.”</p> <p>Page 152 - Also add above wording to the executive procedure rules 1.2, Delegation by the leader, as new 1.2 (v).</p> <p>Page 153 - Add at the end of 1.3 on the Council’s scheme of delegation and executive functions:</p> <p>“Any changes between the portfolios of individual executive</p>	This amendment will allow the executive to respond to changes in a timely and expeditious fashion without reference back to council assembly.

No.	Issue / Constitution Reference	Current Position	Recommendation of Standards Committee	Comment
			members in the course of the municipal year will be determined by the leader.”	
3.	Article 9.03 – Standards committee – Role and functions (Pages 21 - 22)	No reference is made in this section to the role of standards committee in offering guidance on the content and working of the member officer protocol. The member officer protocol prescribes this role.	Add new clause 9.03 (s):  “To offer guidance on the content and working of the member officer protocol.”	Standards committee recommended this change on March 7 2005.
4.	Part 3G Matters Reserved to Licensing Committee/Sub-Committees	The current wording makes no differentiation between the roles of the committee and sub-committee. Both are able to consider hear licensing policy matters and individual applications. It is the view of officers that this should be amended to reserve the former responsibilities to the licensing committee. These are currently set out in article 8	Add new section below the title to read:  <b><i>“The licensing committee to</i></b>  <b><i>1. Approve the council’s policies in respect of all licensing and registration matters.</i></b>  <b><i>2. To establish policies and procedures for considering and determining additional licensing functions conferred on the authority by statute.</i></b>  The licensing committee and the sub-committees appointed by it to	This change clarifies the relationship between committee and sub-committee.

No.	Issue / Constitution Reference	Current Position	Recommendation of Standards Committee	Comment
			exercise licensing functions to consider...	
5.	Article 13 – Decision Making (Pages 32 – 33)  13.03(b)(ii) - Types of Decision	This clause refers to a “... Protocol for Key Decisions set out in Part 5 of this Constitution”	Delete the words “...Protocol for Key Decisions set out in Part 5 of this constitution.”	This information is set out in the Access to information Procedure Rules and the appendix to these rules, which sets out the definition of a key decision.
6.	Executive Procedure Rules 1.3 – How the executive operates – the council’s scheme of delegation and executive functions (Pages 152 – 153)	Currently the executive procedure rules in clause 1.3 (page 153) state changes to Part 3 on responsibility for functions should be agreed by council assembly, including delegations to executive committees.	Page 153 - Add at the end of 1.3:  “Executive committees may be established by the full executive, as required during course of the municipal year.”	A change to this section is proposed to allow the full executive to establish subordinate decision-making committees, where appropriate, without reference back to council assembly. In this same way the full executive will be able to operate in the same way as other committees. This will increase flexibility and efficiency of decision-making.
7.	Member Officer Protocol (Pages 207 – 217)  Section 17 – When things go wrong – Procedure for councillors	The informal stage of any complaint is not defined as such. This proposal makes it more explicit by introducing a new sentence on preliminary investigations – the approach is	Amend section to read:  “Where a Councillor is dissatisfied with the conduct, behaviour or performance of an officer, and feels that the officer response is unsatisfactory, they should refer the	Standards committee recommended this change on March 7 2005.

No.	Issue / Constitution Reference	Current Position	Recommendation of Standards Committee	Comment
		in line with the council's capacity and disciplinary procedures	<p>matter to the officer's Head of Service or Senior Manager. <b><i>The manager should then make a preliminary investigation and consider whether the council's disciplinary and capability procedure is appropriate, and report back to the member concerned.</i></b> Where the complaint relates to a Chief Officer, the complaint should be referred to the Chief Executive. Where the complaint relates to the Chief Executive, it should be referred to the Head of Human Resources and to the Council's Monitoring Officer. Depending on the nature and severity of the complaint, it may be necessary to investigate under the Council's disciplinary and capability procedures (contained in the Business Managers Handbook)."</p> <p>(New text in <b><i>bold/italics</i></b>)</p>	
8.	Member Officer Protocol (Pages 207 – 217)	The officer employment procedure rules set out the	Add footnote on page 215: "The officer	Standards committee recommended this change on March 7

No.	Issue / Constitution Reference	Current Position	Recommendation of Standards Committee	Comment
	Section 17 – When things go wrong – Procedure for councilors	special provisions regarding formal disciplinary process for chief officers and the chief executive, of which the most significant is the right to a report by an independent person prior to a dismissal process being begun. This could be usefully cross-referenced in the Member Officer Protocol.	employment procedure rules set out the special provisions regarding formal disciplinary process for chief officers and the chief executive, of which the most significant is the right to a report by an independent person prior to a dismissal process being begun.”	2005.
9.	All	Throughout the document the borough solicitor is referred to as the borough solicitor and secretary.	Delete “borough solicitor and secretary” and insert “borough solicitor”.	
10.	All	The document refers to chief finance officer throughout.	Delete “chief finance officer” and insert “director of finance”	

**APPENDIX 4**

**FINANCIAL PROCEDURE RULES TECHNICAL AMENDMENTS**

## **Financial Standing Orders**

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### **Introduction**

#### **1. Financial administration**

- (a) Director of finance
- (b) Strategic directors
- (c) Financial advice to the executive
- (d) Financial Regulations
- (e) Fees and charges
- (f) Debt write offs
- (g) Internal audit

#### **2. Financial planning**

- (a) Planning process

#### **3. Preparation of the revenue budget**

- (a) Director of finance's responsibilities
- (b) Strategic director responsibilities
- (c) Budget working papers and revenue estimates
- (d) Budget timetable and cash limits

#### **4. Setting the annual budget and the council tax**

- (a) Precepting authorities and the tax base
- (b) Collection fund
- (c) Decision by members

#### **5. Monitoring and control of the revenue budget**

- (a) Budget spending
- (b) Monitoring
- (c) Virements
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## **6. Annual Statement of Accounts**

- (a) Director of finance
- (b) Strategic directors

## **7. Preparation of the capital programme**

- (a) Capital strategy
- (b) Capital programme
- (c) Financing of schemes
- (d) Capital schemes

## **8. Monitoring and control of the capital programme**

- (a) Control
- (b) Reporting requirements
- (c) Variations to the capital programme
- (d) Major overspends
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## **9. Leases**

- (a) Inclusion in capital accounts
- (b) Consent

## **10. Schools Fair Funding**

- (a) Application of Standing Orders
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- (c) Scheme for Financing Schools

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- (a) Prudential framework
- (b) Borrowing and investment strategy and decisions
- (c) Departure from ODPM Guidance or the CIPFA Code

## **Glossary**

## **Introduction**

The council allocates resources for both capital and revenue purposes. The council has systems to monitor expenditure and income on an accruals basis and to monitor accounting commitments on both revenue and capital budgets. All references to income and expenditure in the Financial Standing Orders and Financial Regulations include accrued income and expenditure in addition to cash receipts and payments. A short glossary of other terms is appended to the Financial Standing Orders for ease of reference – a more detailed version may be found appended to the Financial Regulations.

References in these Standing Orders to “the executive” should be taken to include decisions taken by the whole executive, decisions by any subcommittee of the executive and decisions by individual members of the executive. Delegations to the executive are set out in the Constitution.

### **1. Financial administration**

#### **a) Director of finance**

- i) The director of finance is the officer appointed by the council in accordance with section 151 of the Local Government Act 1972, section 114 of the Local Government Finance Act 1988, the Accounts and Audit Regulations 2003, and section 25 of the Local Government Act 2003. The postholder must ensure that the council’s financial affairs are administered in a proper manner, in compliance with all relevant professional codes of practice, and all statutory obligations;
- ii) All matters connected with the financial administration of the council’s affairs are the delegated responsibility of the director of finance, except any matters which are delegated to other officers or reserved to committees of council members, the executive, or to the council itself. The director of finance may authorise other officers to carry out matters delegated to him/her except the section 151 responsibilities.

#### **b) Strategic directors**

Strategic directors are responsible for ensuring that there is proper financial management within their department. Specific responsibilities are set out in the Scheme of Delegation for Financial Authority and Accountability. Strategic directors must maintain adequate systems of internal control over financial operations and processes and secure the accuracy and integrity of financial information and systems operating within their departments. Strategic directors must ensure compliance with procedural instructions on financial administration issued by the director of finance. Strategic directors must set and maintain a departmental scheme of management setting out the levels of authorisation and standards for the department.

#### **c) Financial advice to the executive**

- i) Corporate and strategic matters. The director of finance will provide financial advice to the council, its committees, subcommittees, and similar bodies of members including the executive on all matters of a corporate or strategic financial nature or of an interdepartmental nature;
- ii) Departmental matters. Strategic directors are responsible for financial advice to committees, subcommittees and similar service bodies of members including the executive on all financial matters of a departmental nature.

**d) Financial Regulations**

The director of finance will issue Financial Regulations applicable to all or specified categories of council staff. Strategic directors will ensure that all relevant staff in their departments fully comply with them. Individual council officers must familiarise themselves with Financial Regulations, or similar, relevant to their work, and fully comply with them.

The 'Managing Money' section of the council's Business Managers' Handbook for the purposes of these Financial Standing Orders is the council Financial Regulations.

**e) Fees and charges**

Fees and charges set by statute or regulation should be increased in line with them, while fees and charges capped by statute should be increased by a minimum of the Medium Term Financial Strategy rate up to the maximum allowed. Changes in all flexible fees and charges at a rate other than that approved by the Medium Term Financial Strategy require the approval of the individual decision maker in accordance with the council's scheme for individual executive member decision making. Within the fees and charges set, strategic directors are responsible for maximising income for the council.

**f) Debt write offs**

The authority to write off bad debts under £5,000 is delegated to strategic directors within the Scheme of Delegation for Financial Authority and Accountability, subject to compliance with the council's Write Off policy. Write offs of bad debts over £5,000 but under £50,000 are reserved to individual executive members for decision and write offs in excess of £50,000 per case are key decisions that should be dealt with through the council's protocol for decision making. Note that write offs should be for the cumulative debt for one debtor for a business unit.

**g) Internal audit**

- (i) The director of finance is responsible for:
  - Safeguarding the independence of internal audit;
  - Determining the overall audit arrangements and the annual internal audit plan;

- The content and distribution of internal audit reports; and
  - The form and frequency of reports which may be made to the executive arising from internal audit activity;
- (ii) It is the responsibility of all council officers to implement agreed recommendations and to provide, upon the request of the director of finance or a person nominated by him or her for this purpose, any information, explanation or document under the control of the officer concerned which is required for the purposes of or in connection with an internal audit inquiry, project, or investigation; and
- (iii) The director of finance will report to the executive any serious breach of Financial Standing Orders or of the Financial Regulations or procedural instructions issued in accordance with them.

## **2. Financial planning**

### **a) Planning process**

The council's financial planning processes and planning horizons, for the revenue budgets (including the housing revenue account) and the capital programme, will be determined by the director of finance, subject to approval by the executive. This will have regard to the council's Community Strategy, corporate priorities and business plans.

## **3. Preparation of the revenue budget**

### **a) Director of finance's responsibilities**

The director of finance is responsible for the overall coordination of the budget process. Under section 25 of the Local Government Act 2003, s/he also has specific responsibilities for reporting on

- the robustness of the estimates
- the adequacy of the proposed financial reserves

### **b) Strategic director responsibilities**

- (i) Preparing the revenue budget for the services in his/her departments in consultation with the relevant member of the executive, which will have regard to the Community Strategy, corporate priorities and business plans.
- (ii) Ensuring that corporate deadlines are met.
- (iii) Ensuring that resources are allocated through a detailed budget on SAP by the deadline set by the director of finance.

**c) Budget working papers and revenue estimates**

- (i) All working papers and revenue estimates must be prepared in accordance with issued procedural instructions. The instructions will include information in respect of inflation, capital financing costs and other variables outside the control of service departments.
- (ii) The revenue estimates must include forecast expenditure and income for the year.

**d) Budget timetable and cash limits**

As part of the council's arrangements for medium term financial planning and budget preparation, the executive will give guidance on the budget timetable to be adopted and the resource constraints (cash limits) within which business plans and budget estimates must be prepared. The executive may also, as part of a strategy to integrate strategic planning with three-year budgeting, issue indicative cash limits for up to three years ahead.

**4 Setting the annual budget and the council tax**

**a) Precepting authorities and the tax base**

The council must before January 31 each year approve the council tax base for the following financial year. Following the council decision, the director of finance will inform precepting and levying bodies of the approved council tax base.

**b) Collection fund**

The director of finance will determine the probable collection fund surplus or deficit for the year, notify precepting bodies, and report to the executive.

**c) Decision by members**

- (i) The executive will make recommendations to the council regarding the annual budget for the following financial year and the council tax required to finance it; and
- (ii) At a meeting on or before March 1 each year, the council will set the overall council tax (including impact of the GLA precept) for the following financial year.

**5 Monitoring and control of the revenue budget**

**a) Budget spending**

Following approval by the council of the annual revenue estimates, strategic directors may spend within the agreed budget for their departments. They must ensure that the net expenditure for their departments does not exceed the approved budget. They must

also ensure that they do not incur expenditure on budgets outside their departmental budget without first getting approval from the relevant strategic director.

**b) Monitoring**

(i) Strategic directors must:

- i ensure that there are adequate systems to monitor and audit the resources allocated to services;
- ii monitor at least monthly the accurately projected income and expenditure outturn for the financial year under each budget heading, having regard to any contingent or other liabilities for which financial provision may be required.
- iii present reports containing up to date summary projections to the relevant executive member each month;

(ii) the director of finance must:

- i report on the overall financial position of the council to the executive as required, but at least three times a year. This report will include any concerns s/he may have about the outturns projected by strategic directors or about financial controls within departments; and
- ii report to the council assembly, not later than August of each year, on the financial outturn for the previous financial year.

**c) Virements**

Strategic Directors may vire budget provision between budgets within their department, subject to the following:

- (i) The authority for all virements must comply with each department's scheme of management;
- (ii) Provisions included within departmental budgets on the instructions of the director of finance, e.g. insurance, capital charges, leasing costs, service level agreements etc, may not be vired for other purposes without the written consent of the director of finance; and
- (iii) The departmental strategic director must report virements in excess of £500,000 (including grossing up of budgets where total virements net to nil) to the executive at least twice a year, in as much detail as requested by the executive.

**d) Budget adjustments**

- (i) Where responsibility for a service is transferred from one department to another, the director of finance will transfer resources in consultation with the relevant strategic director(s). The transfer will be reported to the executive at the earliest opportunity.
- (ii) The executive may at any time during a financial year, having considered a report of the director of finance, vary the departmental approved budget either:
  - i. To require mid year savings to compensate for a projected corporate overspend;
  - ii. To allocate to departments sums included within corporate provisions or budgets; or
  - iii. Following transfer of service(s) between departments.

**e) Carry forward of underspends**

The director of finance may, on consideration of the overall financial position of the council at the end of a financial year, recommend to the council assembly whether underspends by departments can be made available for specific projects or carried forward to the subsequent financial year, or otherwise accounted for.

**f) Accuracy of accounts**

It is the responsibility of strategic directors, having regard to any guidance which may be issued by the director of finance, to ensure that all items are correctly accounted for, and that all expenditure and income is charged to a revenue account in the first instance, in accordance with proper accounting practices. The only exceptions under the provisos of the Local Government Act 2003 are:

- Expenditure under finance leases
- Expenditure permitted to be charged to capital
- The repayment of sums borrowed
- Expenditure on approved instruments (treasury loans)
- Payments from the superannuation funds
- The use of trust funds
- Transactions within the collection fund

**6 Annual Statement of Accounts**

**a) Director of finance**

The director of finance is responsible for the preparation and certification of the annual Statement of Accounts in accordance with current legislation and in particular with the Accounts and Audit Regulations 2003. The director of finance will make arrangements for the coordination of the council closing of accounts programme to ensure compliance with national guidelines.

## **b) Strategic directors**

Strategic directors are responsible for ensuring:

- i. The accuracy of their departmental accounts and compliance with all current legislation and applicable accounting codes of practice; and
- ii. The prompt production of adequate working papers to justify all items attributable to them in the Statement of Accounts; and
- iii. The achievement of their departmental closing of accounts programme in line with the director of finance's timetable for the closure of accounts and production of the annual Statement of Accounts; and
- iv. The completion of all grant claims accurately, within deadlines and with adequate supporting working papers, ensuring that income due to the council is maximised.
- v. That their staff fully cooperate with the council's external auditors during their audit of the accounts and grant claims.

## **7 Preparation of the capital programme**

### **a) Capital strategy**

The council assembly will approve the capital strategy annually. This will include setting the council's investment priorities and the principles upon which the capital programme will operate.

### **b) Capital programme**

The executive will, on consideration of annual and ad hoc reports from the director of finance, agree the capital programme. The reports from the director of finance will consider the compliance of proposed schemes in the programme with the capital investment strategy, the capital resources available to the council, the revenue implications of the proposed capital expenditure, and any other relevant information.

### **c) Financing of schemes**

Within the overall approved capital programme, the director of finance will decide the method by which any particular scheme will be financed.

### **d) Capital schemes**

Approval to spend on individual capital schemes will only be given once issued procedural instructions have been complied with and cash flow implications have been determined and assessed to the satisfaction of the director of finance.

## **8 Monitoring and control of the capital programme**

## **a) Control**

Strategic directors must ensure that their total departmental capital spending in any financial year does not exceed the relevant provision within the capital programme, except where approved by the director of finance.

## **b) Reporting requirements**

- (i) Strategic directors must report at least quarterly to the relevant executive member on departmental capital expenditure incurred to date in the financial year and the projected outturn for the financial year compared to budget. The quarterly reports will also include indicative proposals for the next two years including forecasts of cash outflows by project in each year, highlighting slippage and project delays and the latest estimates of capital receipts for the same period.
- (ii) The director of finance will report on the actual capital expenditure incurred by the council as a whole to the executive as required, but not less than twice a year. This report will include details of the projected outturn for the financial year and the total capital resources available to the council with which to finance such expenditure.
- (iii) The director of finance will report to the executive on the outturn position for capital expenditure for each financial year.

## **c) Variations to the capital programme**

Strategic directors may vary the budget for individual schemes or block provisions and may add schemes from the reserve list subject to any increase in budget being met by virements or additional resources and subject to the agreement of the director of finance. They must report such variations to the executive, at the earliest opportunity.

## **d) Major overspends**

Strategic directors must report to the executive on any schemes in progress, which are forecast to overspend by 25% or more compared to the contract sum unless the overspending amounts to less than £200,000. The report must give the reasons for the overspending.

## **e) Accuracy of accounts**

It is the responsibility of strategic directors, having regard to any guidance which may be issued by the director of finance, to ensure that all items are correctly coded and only expenditure classified as capital expenditure in accordance with proper accounting practices or as defined as such under the Local Government Act 2003 (and subsequent regulations) is charged to capital.

## **9 Leases**

### **a) Inclusion in capital accounts**

The taking or granting of a lease on any asset may form part of the council's capital expenditure or receipts, and must, therefore, be provided for.

**b) Consent**

Strategic directors are required to obtain written permission from the director of finance before taking or granting a lease on any asset. The exceptions to this are:

- (i) The granting of short term leases on property within the commercial property portfolio managed by the head of property services; and
- (ii) The granting of leases on housing revenue account dwellings under the right to buy provisions of the Housing Act 1985.

**10 Schools Fair Funding**

**a) Application of Standing Orders**

Delegated budgets of schools, in accordance with the Schools Standards and Framework Act 1998, remain part of the authority. The statutory responsibilities of the director of finance apply to schools in the same way as any other part of the council.

**b) Financial Regulations**

Financial Regulations applying to schools which differ from those issued to strategic directors and departments will be issued by the director of education after agreeing them with the director of finance.

**c) Scheme for Financing Schools**

The director of finance and director of education will consult on and issue a Scheme for Financing Schools annually.

**11 Treasury management**

**a) Prudential framework**

**i) Prudential indicators**

The director of finance shall set out prudential indicators for capital finance and treasury management under the provisions of the Local Government Act 2003 for consideration and decision by council assembly alongside consideration of the budget and council tax each year.

**ii) Reporting**

The director of finance shall monitor and report at least twice a year on performance against the indicators.

**b) Borrowing and investment strategy and decisions**

i) Strategy

The director of finance shall set out the borrowing and investment strategy for consideration and decision by the council assembly each year, in accordance with ODPM Guidance on Local Government Investments and the CIPFA Code of Practice on Treasury Management in the Public Sector.

ii) Decisions

All executive and operational decisions on borrowing, credit finance and investments are delegated to the director of finance, who shall report on activity at least twice a year.

**c) Departure from ODPM Guidance or the CIPFA Code**

If the director of finance should wish to depart materially from the main principles of the Guidance or Code, the reasons should be reported to the council assembly.

## **Glossary**

### Capital programme

The capital programme is a medium term statement of the council's proposals for capital expenditure, including leasing, having regard to the likely level of resources.

### Financial Regulations

Financial Regulations are such procedures that the director of finance shall issue from time to time as part of the Financial Standing Orders. Currently these are contained within the Managing Money section of the Business Managers' Handbook and all complementary or otherwise similar procedures issued.

### ODPM

The Office of the Deputy Prime Minister – a government department.

### Prudential indicators

Prudential indicators are indicators set by each local authority under CIPFA's Prudential Code for Capital Finance to help demonstrate that capital investment plans are affordable, prudent and sustainable and that treasury management (see below) decisions are taken in accordance with good practice. Examples of indicators are ratios of financing costs to net revenue streams; estimates of the incremental impact of capital investment decisions on council tax and levels of external debt.

### Schools Fair Funding

The Department for Education and Skills approves the council's Fair Funding Scheme. The Scheme contains details of Financial Standing Orders and Regulations.

### Treasury management

In order to maximise the return on temporary surplus cash balances and minimise the cost of short term borrowing, the council employs a policy of "treasury management".

### Virements

A virement is an agreed reallocation of budgetary provision that has been approved for one purpose to another designated budget.

## PROPOSED CHANGE TO OVERVIEW & SCRUTINY PROCEDURE RULE 19

This appendix reproduces the current rule 19 and indicates the proposed changes. Any deletions are shown by a strikethrough of the relevant text and additions are shown in ***bold/italics***.

### 19. Procedure following Call-in

- 19.1 ***If the head of overview and scrutiny (HoS) is of the opinion that a request for a call-in may not be valid, because of a breach of procedure or other reason under this constitution, they shall inform the relevant members (this must always include the chair and vice chair) within one working day of receipt of the request. In the event of dispute, the decision of the monitoring officer shall be final.***
- 19.2 ***Following call-in of a decision, the HoS shall notify the decision-maker and the relevant chief officer, who shall suspend implementation of the decision. If the request for call-in states that the reason for call-in is that the decision is outside the budget or policy framework, the HoS shall also notify the monitoring officer or director of finance in order for a report to be prepared for the overview & scrutiny committee***
- ~~19.1 Following call-in of a decision, the Proper Officer shall call a meeting of the Overview & Scrutiny Committee on such date as he/she may determine, where possible after consultation with the Chair of the Committee, and in any case within 5 clear working days of the call-in request.~~
- 19.3 ***Within 5 clear working days of the call-in request, and where possible in consultation with the chair of the overview and scrutiny committee, the HoS shall either:***
- (1) ***refer the called-in decision to the next meeting of the overview & scrutiny committee, if that meeting is within 10 clear working days of the receipt of the call-in request; or***
  - (2) ***call an extraordinary meeting of the overview & scrutiny committee to consider the called-in decision, to take place as soon as possible and in any case within 10 clear working days of the call-in request; or exceptionally***
  - (3) ***where a called-in decision cannot reasonably be considered within the timescale in clauses (i) or (ii) above, the head of overview and scrutiny will arrange an extraordinary meeting of the overview and scrutiny committee to consider the matter outside the normal timetable, unless the view of the monitoring officer and/or the director of finance, in consultation with the relevant chief officer, the matter cannot wait and in which case it shall be considered in accordance with the timescale set out above.***

**NOTE: Renumber subsequent paragraphs)**

- 19.4 If the Overview & Scrutiny Committee does not meet ***within the constitutional timescale set out for call-ins***, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the scrutiny meeting, or the expiry of ~~8-~~ **15** clear working days after the decision was published, whichever is the earlier, ***unless the provisions of 19.3(3) are applied.***
- 19.5 On meeting, the Committee will consider the call-in request and in particular whether or not the decision might be contrary to the policy framework or not wholly in accordance with the budget. Advice should be sought from appropriate Chief Officers, the Monitoring Officer or the Finance Director. The Monitoring Officer's report and/or Finance Director's report shall be copied to every Member of the Council.
- 19.6 If, having considered the decision and all relevant advice, the Overview & Scrutiny Committee is still concerned about it, then it may either:
- refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns; or
  - refer the matter to Council Assembly if the decision is deemed to be outside the policy and budget framework.
- 19.7 If referred to the decision maker, with the exception of Community Councils they shall then reconsider their decision within a further 7 clear working days. If referred back to a Community Council, reconsideration will wait until the next scheduled meeting of the Community Council, unless the Borough Solicitor & Secretary determines, following consultation with the relevant Chief Officer and Chair of the relevant Community Council (or in his or her absence the Vice-Chair), that the matter can not wait in which case it will be considered within 7 working days. If it is the view of the Monitoring Officer or the Finance Director that the decision falls within the policy and budget framework, the decision-maker may amend the decision or not, before adopting a final decision.
- 19.8 If referred to Council Assembly, the decision is further suspended pending a meeting of Council Assembly, which must take place within 7 clear working days of the decision to refer to Council. Within this time, the Executive must meet to decide what action to take in respect of the Monitoring Officer's and/or Finance Director's advice and to prepare a report to Council Assembly.
- 19.9 If the Council Assembly does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Council Assembly meeting, or the expiry of 15 clear working days after the decision was published, whichever is the earlier.
- 19.10 The Council Assembly will receive details of the decision, the advice of the Monitoring Officer and/or the Finance Director, the comments of the Overview & Scrutiny Committee and the report from the Executive.
- 19.11 Where the Council Assembly accepts that the decision is within the budgetary and policy framework it may either:

- i) endorse a decision or proposal of the Executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council Assembly be minuted and circulated to all Councillors in the normal way; or
- ii) if it objects to the decision on grounds other than it falling outside the budget or policy framework, refer the decision back to the decision-making person or body, together with the Council Assembly's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it, reporting this to the relevant scrutiny committee. Where the decision was taken by the Executive, a meeting will be convened to reconsider within 5 working days of the Council Assembly request. Where the decision was made by an individual, the individual will reconsider within 5 working days of the Council Assembly request.

**19.12** Where the Council Assembly accepts that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget, it may either:

- i) amend the Council's budget or policy framework to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council Assembly be minuted and circulated to all Councillors in the normal way; or
- ii) require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Finance Director. A meeting will be convened by the Executive within 5 working days to reconsider/amend the decision and this will be reported to the Overview & Scrutiny Committee.