

Item No. 4.	Classification: Open	Date: May 31 2006	Meeting Name: Council Assembly
Report title:		Constitutional Review 2006/07 – General Review	
Ward(s) affected:	or groups	All	
From:		Chief Executive (Borough Solicitor)	

RECOMMENDATIONS

That the recommendations set out in this report on changes to the constitution in respect of the following be considered:-:

Policy Framework

1. Policy Framework (*see paragraphs 14 – 15 and table 1*)

Council assembly procedure rules

2. Deputations and public question time (*see paragraph 17*)
3. Petitions (*see paragraph 18*)
4. Freedom of the Borough and Honorary Alderman (*see paragraph 19*)
5. Metropolitan open land (*see paragraphs 20 - 23*)

Executive matters

6. Part 3B: Executive terms of reference (*see paragraph 24*)
Part 3C: Matters reserved to the executive for collective decision making (*see paragraph 25*)
7. Executive procedure rules –(a) public question time and (b) quorum (*see paragraph 26*)

Others changes

8. Standards committee (*see paragraphs 27 – 28*)
9. Licensing committee (*see paragraph 30*)
10. Financial standing orders and audit (*see paragraphs 31 – 32 and table 2*)
11. That the changes to Article 12 – Officers, be agreed (*see paragraph 33*).
12. That the arising from recommendations 1 – 11, officers be authorised to make any consequential amendments and cross-referencing amendments to the constitution.

BACKGROUND INFORMATION

Constitution and role of standards committee

13. The terms of reference of standards committee include specific responsibility for the oversight, review and recommending amendments to the constitution. 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.

14. The existing constitution was adopted at council assembly (constitutional meeting) in May 2005. However since that time both the council and government have considered arrangements that require the current constitution to be amended.
15. Standards committee on February 6 2006 considered a report entitled constitutional review 2005/06. A number of the recommendations contained herein arise from the committee's consideration of that report. In order to consider constitutional issues during the post election period the standards committee established the constitutional steering group consisting of two independent members of the standards committee and the three party group whips. The steering group met on May 10 2006 to consider several issues, all of which are clearly marked in this report.

KEY ISSUES FOR CONSIDERATION

16. This report constitutes the monitoring officer's annual report, any constitutional issues have first been considered by the standards committee and the committee's constitutional steering group.

Policy Framework

14. The Local Government Act 2000 introduced a 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 and amended last year to include the housing strategy and prudential borrowing limits.
15. Changes have arisen from "Every Child Matters". Primary legislative basis provided by Section 17 of the Children Act 2004 required all councils from April 1 2006 to have a Children and Young People's Plan. This is an overarching plan, covering 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, though it will still be underpinned by more specific operational plans. The first Southwark Children and Young People's Plan has already been approved by council assembly in March 2006 and it is recommended that the constitution be amended so this new plan should form part of the policy framework in future. Appendix C indicates the plans replaced by the Children and Young People's Plan.

Table 1 – 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 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.

No.	Current Item	Recommendation	Comment
6.	Early years and childcare partnership strategic development plan	Delete	<p>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.</p> <p>Recommended that should be superseded by approval of the Children and Young People's Plan (see paragraph 15)</p>
7.	Education development plan	Delete	<p>This plan was previously required by statute to be approved by council assembly.</p> <p>Recommended that should be superseded by approval of the Children and Young People's Plan (see paragraph 15)</p>
8.	Neighbourhood renewal strategy	No change	In May 2002, council agreed that this matter should form part of the policy framework.
9.	School organisation plan	Delete	<p>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.</p> <p>Recommended that should be superseded by approval of the Children and Young People's Plan (see paragraph 15).</p>
10.	Youth justice plan	No change	This plan is required by statute to be approved by council assembly.
11.	Capital investment strategy	No change	This strategy is approved by council assembly as part of its responsibility for the budget.
12.	Housing Strategy	No change	In May 2005, council agreed that this matter should form part of the policy framework.
13.	Prudential borrowing arrangements	No change	In May 2005, council agreed that this matter should form part of the policy framework as a matter reserved to council assembly.
14.	Children & Young Persons Plan	Insert	Section 17 of the Children Act 2004 requires all councils from April 1 2006 to have a Children and Young Persons Plan. This plan brings together all the plans and strategies currently in the policy framework dealing with children (please see plans 6, 7 and 9 to be deleted).

Recommendation 1

That the policy framework as set out in table 1 be agreed.

Council assembly procedure rules

16. As in previous years officers have convened a meeting with the political group whips to review this section of the constitution and have discussed various aspects of the review at standards committee and the committee's constitutional steering group on May 10 2006.

Deputations and public questions

17. Standards committee on February 6 2006 agreed the revised format for deputations and public questions as set out in appendix A. There are no changes to the actual wording of the procedure rules, however it was recognized that there might be some value in re-formatting the current versions so they have clearer titles and more consistent and uniform sub-sections.

Recommendation 2

That the revised public questions and deputations clauses as set out in appendix A, be agreed.

Petitions

18. Standards committee on February 6 2006 agreed to expand on the procedure rules relating to members presenting petitions. The committee agreed that members should be allowed to make a short speech to include the subject matter and number of signatures contained within a petition that they present. On May 10 2006 the standards committee constitutional steering group agreed the wording as set out below.

Recommendation 3

That the wording to expand council assembly procedure rule 3.8 – petitions, as set out below, be agreed:

- *15. The member presenting the petition may speak for up to 2 minutes on the subject matter and number of signatories contained within the petition. Council assembly will not debate the petition. Receipt of the petition will be recorded in the minutes. The borough solicitor will arrange for a summary of any petition which addresses an issue within the direct responsibility of the council to be referred to the relevant executive member or chief officer.

* This denotes that the procedure rule cannot be suspended.

Granting the Freedom of the Borough and Honorary Alderman

19. In accordance with Article 9.03 (r), standards committee may recommend that council assembly award the Honorary Freedom of the Borough and Honorary Alderman and grant civic awards. However, at present council assembly procedure rule 5 (Granting of the Freedom of the Borough) does not specify how council assembly would confer the title of Honorary Alderman. Therefore, it is suggested that council assembly procedure rule 5 be expanded to include reference to the conferment of Honorary Alderman. The wording set

out below was agreed by the standards committee constitutional steering group on May 10 2006.

Recommendation 4

That the expanded rules on Freedom of the Borough and Honorary Alderman - as set out below, be agreed.

REVISED WORDING:

5. GRANTING OF THE FREEDOM OF THE BOROUGH AND CONFERRING THE TITLE OF HONORARY ALDERMAN

- 5.1 The council assembly at a specially convened meeting shall consider the recommendation of the constitutional steering group¹ for nominations i.e. the conferment, for the purposes of honouring or granting the Freedom of the Borough, to any person, organization or body that meet the criteria approved by the council and who have rendered eminent service to Southwark, and shall by a resolution passed by not less than two-thirds of the members voting agree upon those to be honoured. Thereafter, the Freedom of the Borough shall be presented to the agreed recipients.
- 5.2 The council assembly at a specially convened meeting shall consider the recommendation of the constitutional steering group for nominations i.e. the conferment, for the purposes of honouring or conferring the title of Honorary Alderman, to any person who meets the criteria approved by the council and who have rendered eminent service to Southwark as past members of the council, and who are not then councillors of the council, and shall by a resolution passed by not less than two-thirds of the members voting agree upon those to be honoured. Thereafter, the title of Honorary Alderman shall be presented to the agreed recipients.

Metropolitan Open Land

20. Currently in the Southwark constitution Metropolitan Open Land (MOL) is a matter reserved to council assembly. However some recent advice has led to this matter being reviewed. The original decision to reserve to council assembly dates back to May 2002 when council assembly was given the option of reserving MOL to itself or delegating the matter to the executive. Under the Local Government Act 2000 section 13(2) any function of a local authority which is not expressly specified in regulations - either as not to be the responsibility of the executive or a function that maybe the responsibility of the executive or is a function not to be the sole responsibility of the executive – is strictly defined as powers that **must** be an executive function. The disposal of MOL does not appear to fall into any of these categories. In order to clarify this matter the borough solicitor is recommending that the constitution should be amended to reflect this position. Counsel's opinion was sought on this matter and a full copy of the advice is attached as appendix B.
21. The standards committee met on 6 February 2006 to consider the report on constitutional review 2005/06 which included the above recommendation. The committee requested that officers provide them with additional information on the legal position.
22. The committee also decided that the standards committee constitutional steering group should consider the additional information before the report was submitted to council assembly. On May 10 2006 the steering group considered the following additional

¹ See paragraphs 27 and 28

information: -

- Section 123 Local Government Act 1972 gives local authorities a power to dispose of land held by them in any manner they wish.
- Where the local authority wishes to dispose of open land at a consideration less than the best that can be reasonably be obtained (other than by way of a short term lease) the permission of the Secretary of State is required (section 123(2) of the Local Government Act 1972).
- Section 123(2)(A) provides that a principal council may not dispose of any land consisting or forming part of an open space unless before disposing of the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider objections to the proposed disposal which may be made to them.
- Section 13(2) Local Government Act 2000 provides that any functions of a local authority which is not specified in regulations under subsection (3) is to be the responsibility of an executive of the authority
- Section 13(3) provides that the secretary of state may by regulations make provision for any function of a local authority specified in the regulations –
 - To be a function which is not to be the responsibility of an executive of the authority under executive arrangements,
 - To be a function which may be the responsibility of such an executive under such an executive arrangement; or
 - To be a function which –
 1. to the extent provided by the regulations is to be the responsibility of such an executive under such arrangements, and
 2. to the extent provided by the regulations is not to be the responsibility of such an executive under such arrangements.
- The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 specify those functions, which are not the responsibility of the executive, those that may be (but need not be) the responsibility of the executive or is or is not the responsibility of the executive to a specified extent.
- The sale of metropolitan open land has not been specified in the regulations in any of the categories of functions, which are not the responsibility of the executive. Therefore in accordance with the provisions of section 13(2) Local Government Act 2000, the sale of metropolitan open land is a function of the executive.

23. Upon consideration of the above the constitutional steering group requested further information on the disposal of MOL and planning issues. This information will be circulated separately as an addendum report. Council assembly is requested to consider the changes outlined in recommendation 5 below.

Recommendation 5

That in line with legal advice, the borough solicitor recommends the following changes to the constitution:

1. In article 4.02 – Functions of council assembly – delete “(l) disposal of council

owned metropolitan open land”; and,

2. In Part 3C, matters reserved to the executive in paragraph 12 delete exclusion from executive decision of “disposal of council owned metropolitan open land”.

Executive Matters

Part 3B: Executive terms of reference

24. The following amendments need to be made to the executive procedure rules to reflect the council’s response to the use of resource assessment and in order to recognise current arrangements:-

- Insert new responsibility under ‘General’:-
 - “To have responsibility for the operation of the council’s risk management function.”
 - “To have responsibility for audit issues.”
- Under Plans and Strategies to be approved by the executive remove:-
 - “LMS scheme/formula” and replace with “schemes for financing schools”
 - “Resources accounting business plan” and replace with “Medium term financial strategy”.

Changes arising from the Children and Young People’s Plan require that the following plans and strategies also need to be removed from those listed for approval by the executive (see appendix C for list of plans replace by the C&YPP):-

- “Asset management plan (education)”
- “Behaviour support plan”
- “Teenage pregnancy strategy.”

Part 3C: Matters reserved to the executive for collective decision making

25. Section 12 of Part 3C of matters reserved to the executive currently allows the disposal of leasehold and freehold interest in land and property where the market value is more than £250,000, excluding right to buy and Leasehold Reform Act cases and the disposal of council owned metropolitan open land. Since 1998 property disposals to a maximum of £250,000 have been delegated to the strategic director of regeneration. However, according to research carried out by the Nationwide Building Society property prices in Greater London have increased by 149.78% since 1998, and in Southwark the increase has probably been greater. If the delegated sum was increased in line with house price inflation this would have raised the limit to approximately £624,450. It is therefore recommended that the delegated limit for disposals be increased to £500,000. This would bring the amount in line with the definition of key decisions, reduce the number of reports referred to the executive and mean that minor disposals can be dealt with in a quick and efficient manner. Any disposals of a controversial nature would still be referred to the executive irrespective of price.

Recommendation 6

That the amendments to Part 3B and 3C; Executive terms of reference and matters reserved to the executive for collective decision making, as set out in paragraph 24 and 25 of the report, be agreed.

Executive procedure rules – (a) public question time and (b) quorum

26. At present executive procedure rule 2.6 (iii) allows 15 minutes for public question time but offers no further guidance. Current practice is based on a procedure note. Therefore in order to enhance the transparency of the process the May 10 2006 constitutional steering group agreed the expanded executive procedure rules for public question time as set out below in recommendation 7(a). The text is based upon that used by council assembly apart from the deadline for receipt, the fact that there is no provision for a supplemental question and no written response will be provided unless the questioner is unable to be present and request a written response. In practice most questions are submitted well in advance of the meeting, and officers do encourage this, as otherwise the executive member does not have sufficient time to be briefed prior to the meeting. This ensures members of the public receive a well informed and full answer to the question.

In recommendation 7(b), council assembly is asked to approve a clarification of the wording relating to the quorum for the full executive and executive committees to provide a more consistent wording. The full change is set out in set out in appendix I.

Recommendation 7(a) – Public Question Time

That the expanded executive procedure rules for public question time, as set out below, be agreed:-

2.11 Procedures at executive meetings for public questions

1. The time during which public questions shall be taken shall not exceed 15 minutes.
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 three clear working days in advance of the executive meeting by the borough solicitor.
3. Each question must provide the name and address of the questioner and name the executive member to whom the question should be put.

Scope of questions

4. The leader in consultation with the borough solicitor may reject a question if it:
 - is not about a matter for which the local authority has a responsibility or which affects the borough;
 - is defamatory, frivolous or offensive;
 - is substantially the same as a question which has been put at a meeting of the executive in the past three months;
 - requires the disclosure of confidential or exempt information;
 - concerns a planning or licensing application;
 - raises a grievance for which there are other established processes for resolution;
 - 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.

Record of questions

5. The borough solicitor will enter each question in a book open to public inspection. Rejected questions will include reasons for rejection.

Asking the question at the meeting

7. The leader will invite the questioner to put the question to the member named in the notice.

Supplemental question

8. Any supplemental question will however be at the discretion of the chair.

Written answers

9. 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.

Recommendation 7(b) – Quorum

That the clarification of the wording relating to the quorum for the full executive and executive committees as set out in appendix I be agreed.

Standards committee

27. Following the discussion of the way forward document for standards committee on October 12 2005, which noted that the standards committee's current remit was very wide, members requested a further report based on a comparative survey of Greater London Authorities' standards committees. On February 6 2006 the committee considered its remit as set out in Article 9 of the constitution along side summaries of 31 other London authorities' remits. This review indicated that Southwark had more discrete functions and responsibilities identified than most other authorities. A number of authorities have defined roles limited to the statutory functions only.
28. Refocusing the committee on its statutory functions would require transference of some of its current functions to other committees, working groups of members or to officers. Any such changes need to be considered in the constitutional review process. On May 10 2006 the standards committee constitutional steering group considered the committee's current role and function and recommended that the establishment of the voluntary bodies panel be transferred to council assembly and that the standards committee establish a constitutional panel to consider the remainder of the non-statutory function. Therefore the revised role and function of the standards committee is set out in appendix D. In addition a shortened role and function reference is included in the appendix.

Recommendation 8

1. That the revised role and function of the standards committee, as set out in appendix D, be agreed.
2. That a constitutional steering panel be established with the terms of reference and membership as set out in appendix E.

Scrutiny

29. Officers will report back if it is necessary for the council to review the procedure rules covering scrutiny arrangements.

Licensing committee – Part 3G of the constitution

30. In December 2004 council assembly considered the constitution to incorporate the new requirements of the Licensing Act 2003 e.g. introduction of a new licensing requirements including premises licensing and personal licenses. The constitution currently includes reference to both the new concept and the old ones. This was required so the committee could deal with both kinds of applications during the transition period from February – November 2005. Since November 2005 the Licensing Act 2003 has fully superseded the 1963 Act. Currently section 19 of matters reserved to the licensing committee and sections 1, 2, 3 & 4 of matters delegated to the head of service and licensing officer panel refer to the London Government Act 1963. However, the Licensing Act 2003 supersedes the 1963 Act and therefore reference to such needs to be revised.

Recommendation 9

That the matters reserved to the licensing committee and matters delegated to the head of service and licensing officer panel be revised as set out in appendix F attached.

Financial standing orders and audit

31. Consideration has been given to the most appropriate arrangements for member-level responsibility for audit issues within the council. CIPFA has issued some guidance in recent years on the regulatory framework, accounts and audit activity, which are already incorporated within the constitution. Further guidance is awaited on the subject of audit for wider consultation. Subject to this guidance being published and finalised, it is proposed that the remit of the executive member for resources should be made more explicit to include the audit role. The overview and scrutiny committee would continue to have the opportunity to review audit activities through the executive member, notwithstanding the need to retain confidentiality and discretion in respect of some of these audits. This clarification of role would sit well alongside the enhanced risk management role that is being proposed in support of external audit and the CPA recommendations.
32. In addition the director of finance has recommended a number of revisions that are required to financial standing orders within Part 4 of the constitution. The amendments are set out in appendix F. The changes were recommended to the standards committee constitutional steering group and council assembly for approval. The changes are summarized below:

Table 2: Summary of changes to Financial Standing Orders

No.	Section	Summary of change
1.	Section 1 Financial administration	(a) Finance director – update to reflect current statutory position (e) Partnerships – new paragraph to clarify requirements in relation to different ways of working (i) Fraud – new paragraph to clarify responsibilities
2.	Section 2 financial planning	(a) Planning process – update to reflect current arrangements Section 5 Monitoring and Control of the Revenue Budget (b) (ii) ii Monitoring – update to reflect current arrangements

No.	Section	Summary of change
		(c) Virements – update to clarify arrangements and further define provisions included within departmental budgets on the finance director’s instructions and virements (d) Budget adjustments – update to clarify arrangements
3.	Section 6 Annual statement of accounts	(a) Finance director – update to reflect current statutory position
4.	Section 7 Preparation of the Capital Programme	(a) Capital Strategy – deletion of section to reflect current position (b) Capital Programme – update to reflect current arrangements
5.	Section 8 Monitoring and Control of the Capital Programme	(b) Reporting requirements – update to reflect current arrangements
6.	Glossary	New definitions for budget adjustments/virements and partnerships
7.	Minor updating and clarification of terminology	

Recommendation 10

That the revisions to financial standing orders (Part 4 of the constitution), as set out in appendix G, be agreed.

Article 12 – Officers

33. On December 13 2006 the executive considered a report entitled strategic management arrangements. The report outlined a range of changes designed to strengthen the Council’s strategic and corporate management arrangements and to improve service efficiency and effectiveness. The executive agreed that the changes highlighted in appendix H should become effective January 1 2006. The revised article identifies the finance director as the responsible officer for strategic risk management. The standards committee on February 6 2006 recommended the changes to council assembly.

Recommendation 11

That the changes made to Article 12 – officers, be agreed – see appendix H.

Community Impact Statement

34. This report contains no specific proposals that will impact on local communities. In general when considering constitutional changes regard should be given to the impact on individuals and structures:
- Not to erode officer delegations
 - Have regard to the opportunity for individual members of the public and groups to make representations to decision-makers
 - Taking account of public access to information.
35. The constitution contains a number of routes whereby members of the public can access their elected councillors either as local representatives or when taking decisions, e.g. public question time, deputations and petitions.

Consultation

36. On November 7 2005 officers met with the whips of the three political groups to discuss constitutional review issues. In addition to this the standards committee constitutional steering group met on May 10 2006 to discuss various constitutional issues. Members' comments are reflected within this report.

Resource Implications

37. There are no specific financial implications within this report

Legal Implications

38. The borough solicitor and her staff have been involved in the preparation of this report and the legal implications are contained in the body of the report.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Southwark's constitution	Constitutional Team Southwark Town Hall Peckham Rd, SE5 8UB	Ian Millichap 020 7525 7225
Standards committee – minutes	Ditto	Lesley John 020 7525 7228
Standards committee constitutional steering group minutes	Ditto	Lesley John 020 7525 7228

LIST OF APPENDICES

Appendix No.	Title
Appendix A	Deputations and public question time
Appendix B	Counsel's opinion on MOL
Appendix C	Plans replaced by the C&YPP
Appendix D	Standards committee role and function
Appendix E	Constitutional steering panel terms of reference and membership
Appendix F	Licensing committee – Part 3G of the constitution
Appendix G	Financial standing orders

Appendix No.	Title
Appendix H	Revised Article 12 – Officers
Appendix I	Schedule of other changes

AUDIT TRAIL

Lead Officer	Deborah Holmes, Borough Solicitor Graham Love, Head of Democratic Services	
Report Author	Ian Millichap, Constitutional Team Manager Lesley John, Constitutional Officer	
Version	V5 version	
Dated	18/05/06	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Chief Executive	Yes	Yes
Borough Solicitor	Yes	Yes
Executive Member	No	No
Date final report sent to Constitutional Team		18/05/06

APPENDIX A

DRAFT UNIFORMED PUBLIC QUESTIONS/DEPUTATIONS COUNCIL ASSEMBLY PROCEDURE RULES

3.6 Public questions	Comments	3.7 Deputations	Comments
Which meetings consider public questions		Which meetings consider deputations	
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.	No change	1. Deputations shall not be taken at the annual (Mayor making) or annual (constitutional) meetings.	The order of business for ordinary meetings specifies when deputations can be considered (CAPR 3.2 (vi)).
Who may ask a public question		Who may request a deputation	
2. The right to ask a public questions only applies to persons resident in the borough or business ratepayers.	No change – CAPR 3.6 (2)	2. Deputations can only be made by a person or people resident or working in the borough. Composition of deputation 3. The deputation shall consist of no more than six persons, including its spokesperson.	No change No change
Scope of questions		Scope of deputations	
3. The Mayor in consultation with the borough solicitor may reject a question if it: - Requests to ask a question from individuals or groups of people who have alternative means of expressing their views through	Adding the wording currently used in the deputation rule.	4. The Mayor in consultation with the borough solicitor may reject a deputation if it: - Requests for deputations from groups of people who have alternative means of expressing their views	No change (CAPR 3.7 (1))

3.6 Public questions	Comments	3.7 Deputations	Comments
<p>recognised channels e.g. employees of the authority, trade unions representing staff employed by the authority etc. should not be entertained under this rule.</p> <ul style="list-style-type: none"> - is not about a matter for which the local authority has a responsibility or which affects the borough; - is defamatory, frivolous or offensive; - is substantially the same as a question which has been put at a meeting of the Council in the past six months; - requires the disclosure of confidential or exempt information; - concerns a planning or licensing application; - raises a grievance for which there are other established processes for resolution. - 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 	<p>No change</p> <p>No change</p> <p>No change</p> <p>No change</p> <p>No change</p> <p>No change</p> <p>No change</p>	<p>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.</p> <ul style="list-style-type: none"> - Is not a matter for which the local authority has a responsibility or which affects the borough. - Is defamatory, frivolous or offensive. - requires the disclosure of confidential or exempt information; - concerns a planning or licensing application; - raises a grievance for which there are other established processes for resolution. - 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. 	<p>No change (CAPR 3.7 (2))</p> <p>Adding some of the wording currently used in the public question rule.</p> <p>Ditto</p> <p>No change (CAPR 3.7 (10))</p> <p>Ditto</p> <p>Ditto</p> <p>Ditto</p>

3.6 Public questions	Comments	3.7 Deputations	Comments
an individual member or members.			
Form of question		Form of deputation	
<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>No change (CAPR 3.6 (2))</p> <p>No change (CAPR 3.6 (3))</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.</p>	<p>Not clear in current rule. Proposed change based on current practice.</p> <p>This requirement is set out in CAPR 3.7 (3).</p>
Deadlines		Deadlines	
<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 will immediately be sent to the Member to whom it is to be put. Rejected questions will include reasons for rejection.</p>	<p>No change (CAPR 3.6 (2))</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 purpose. Rejected deputations will include reasons for rejection.</p>	<p>No change (CAPR 3.7 (3))</p>
Agenda		Agenda	

3.6 Public questions	Comments	3.7 Deputations	Comments
<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>No change (CAPR 3.6 (4))</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>Current practice</p> <p>No change (CAPR 3.7 (4))</p> <p>No change (CAPR 3.7 (5))</p>
<p>Length of public question time</p>		<p>Maximum number of deputations to be considered at council assembly</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>No change (CAPR 3.6 (1))</p>	<p>11. 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</p>	<p>No change (CAPR 3.7 (6))</p>

3.6 Public questions	Comments	3.7 Deputations	Comments
		<p>deputations to be reported will be determined on the basis of the order of the date and time received.</p> <p>12. 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>No change (CAPR 3.7 (7))</p> <p>No change (CAPR 3.7 (6))</p>
Asking the question at the meeting		What happens at council assembly meetings	
<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</p>		<p>13. The meeting, without debate, shall decide whether to:-</p> <ul style="list-style-type: none"> • receive the deputation at this meeting or a future meeting; or • not receive the deputation; or • referred the deputation to the most appropriate committee/sub committee. 	<p>No change (CAPR 3.7 (9) (i))</p>

3.6 Public questions	Comments	3.7 Deputations	Comments
<p>move onto the next item of business.</p>			
<p>Supplemental question</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>Written answers</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>Reference of question to the executive or a committee</p>	<p>No change (CAPR 3.7 (9))</p> <p>No change (CAPR 3.7 (10))</p>	<p>Speech on behalf of deputation</p> <p>14 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>Questions to the deputation and time limit</p> <p>15 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>16 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>Deputation to withdraw from the floor</p>	<p>No change (CAPR 3.7 (9) (iii))</p> <p>No change (CAPR 3.7 (9) (iv))</p> <p>No change (CAPR 3.7 (9) (v))</p>

3.6 Public questions	Comments	3.7 Deputations	Comments
<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. Once seconded, such a motion will be voted on without discussion.</p>	<p>No change (CAPR 3.7 (11))</p>	<p>the floor</p> <p>17 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>No change (CAPR 3.7 (9) (vi))</p>
		<p>Motions and amendment arising from deputations</p>	
		<p>Debate, motion and amendments</p> <p>18 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>Debate on deputations concerning reports on the agenda</p> <p>19 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</p>	<p>No change (CAPR 3.7 (9) (vii))</p> <p>No change (CAPR 3.7 (9) (viii))</p>

3.6 Public questions	Comments	3.7 Deputations	Comments
		<p>report may then be considered in accordance with council assembly procedure rule 1.6(b). If the vote is lost, the subject matter will not be debated until the relevant item is reached in the order of business.</p> <p>Subject of deputation not on agenda</p> <p>20. 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 amendment 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>Formal communication of council assembly's decision</p> <p>21 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.</p>	<p>No change (CAPR 3.7 (9) (ix))</p> <p>No change (CAPR 3.7 (9) (x))</p>

METROPOLITAN OPEN LAND – COUNSEL’S OPINION

Plans replaced by the Children and Young People's Plan

Plans linking to the CYPP	Statutory plans replaced ¹	Non-statutory plans replaced
Community Strategy	Behaviour Support Plan	Area Child Protection Committee Business Plan
Best Value Performance Plan	Children's Services Plan	Asset Management Plan
Local authority operational plans on education, social services, asset management, and other functions as set out in Section 2.	Class Sizes Plan	Behaviour Improvement Plan
	Early Years Development and Childcare Plan	Excellence Cluster Plan
	Education Development Plan	Excellence in Cities Plan
Primary Care Trust (PCT) Local Delivery Plan	Local Authority Adoption Services Plan	ICT Development Plan
Local police authority's 3 Year Strategy Plan and local policing plan	School Organisation Plan	Primary Strategy Plan (formerly literacy and numeracy plans)
Youth Justice Plan		Teenage Pregnancy Strategy (to be subsumed by the CYPP from April 2006)
Probation Area Annual Plan		Underperforming Schools Plan
Crime and Disorder and Misuse of Drugs and Alcohol Strategies		Youth Service Plan
Learning & Skills Council (LSC) Plans		Local Preventative Strategy
Child & Adolescent Mental Health Service (CAMHS)		Children's Centre Implementation Plan
Healthy Schools Programme Plan		
Play Strategies		
Connexions Partnership Plans		
Local Development Frameworks		
Planning documents on matters listed in Section 2.		

¹ The repeal of statutory planning requirements came into force on 1 March 2005

STANDARDS COMMITTEE ROLE AND FUNCTION

The five statutory functions of a standards committee are to:

- a) Advise the council on adopting a local code of conduct.
- b) Monitor the effectiveness of the code.
- c) Train members on the code, or make arrangements for such training.
- d) Promote and maintain high standards of conduct for members.
- e) Help members to follow the code of conduct.

The first three functions are specific; the last two are the general functions.

SOUTHWARK'S STANDARDS COMMITTEE ROLE AND FUNCTION 2005/06		
FUNCTION	DECISION MAKER	COMMENTS
(a) Promoting and maintaining high standards of conduct by councillors, co-opted members and church and parent governor representatives;	Standards committee	Statutory function
(b) Advising the council on the adoption or revision of the members' code of conduct;	Standards committee	Statutory function
(c) Monitoring the operation of the members' code of conduct and developing, reviewing and revising any associated protocols;	Standards committee	Statutory function
(d) Assisting the councillors, co-opted members and church and parent governor representatives to observe the members' code of conduct;	Standards committee	Statutory function
(e) Advising, training or arranging to train councillors, co-opted members and church and parent governor representatives on matters relating to the members' code of conduct;	Standards committee	Statutory function

(f) In accordance with regulations ² , granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the members' code of conduct;	Standards committee	Statutory function
(g) Ensuring that a written record is kept of the existence, duration and nature of any dispensation, and that the record is kept with the register of members' interests;	Standards committee	Statutory function
(h) Dealing with any reports from a Standards Board case tribunal or interim case tribunal, and any report from the monitoring officer on any matter which is referred by an Ethical Standards Officer to the monitoring officer;	Standards committee	Statutory function
(i) Considering advice and reports from the Standards Board;	Standards committee	Statutory function
(j) Oversight and review of, and recommending amendments to the constitution;	To be considered by the constitutional steering panel	Non-statutory function.
(k) Receiving reports from the monitoring officer on unlawful expenditure and probity issues;	Standards committee	Statutory function
(l) Receiving reports from the monitoring officer on the quality and recording of decision making;	This falls within the constitution and will be reviewed by the constitutional steering panel	Non-statutory function
(m) Monitoring the officer employment procedure	This falls within the constitution and will be	Non-statutory function

² The regulations currently in force are The Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002 /339.ff

rules;	reviewed by the constitutional steering panel	
(n) Overview of the whistle blowing policy;	To remain within the remit of the Standards committee	Non-statutory function
(o) To constitute the voluntary bodies appointments panel to make recommendations on appointments to Southwark charities and to make appointments to school governing bodies ³	To be considered by council assembly	Non-statutory function
(p) Appointments to outside bodies (where such appointments are not a function of the executive) ⁴ ;	To remain within the remit of the standards committee	Non-statutory function
(q) Make recommendations to council assembly on the members' allowances scheme;	Standards committee	Non-statutory function, however, members requested that it remain as part of standards committee remit.
(r) To make recommendations to council assembly for the award of the Honorary Freedom of the Borough and Honorary Aldermen and to grant Civic Awards.	To be considered by the constitutional steering panel	Non-statutory function
(s) To offer guidance on the content and working of the member officer protocol and the communication protocol.	Standards committee	Statutory function

³ The Charity Commissioners' advice is that appointments to charities should not be made on a political basis. When appointed, Charity Trustees must act solely in the best interests of the charity and must act independently of the Council.

⁴ Statutory guidance (para 5.44 provides) that a local authority's executive arrangements should provide that the executive will make appointments to outside bodies in connection with functions which are the responsibility of the executive (e.g. housing, education, social services, regeneration, etc.) and all other appointments should be made by the full council, a committee or officer of the local authority.

Suggested changes to Article 9

9.02 Role and function

1. To promote and maintain high standards of conduct by councillors, co-opted members and Church and parent governor representatives.
2. To assist councillors, co-opted members and church and parent governor representatives to observe the members code of conduct.
3. To advise the council on the adoption or revision of the members code of conduct, the officer/member protocol and the communications protocol.
4. To monitor the operation of the members code of conduct, the officer/member protocol and the communications protocol.
5. To advise, train or arrange to train councillors, co-opted members and church and parent governor representatives on matters relating to the members code of conduct.
6. To grant dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the members' code of conduct.
7. To deal with any reports from a case tribunal or interim case tribunal and any report from the monitoring officer on any matter which is referred to him or her.
8. To receive reports from the statutory officers under the council's whistle blowing policy.
9. To monitor the administration and make recommendations on of the members allowances scheme.
10. To consider appointments to outside bodies (where such appointments are not a function of the executive).

CONSTITUTIONAL STEERING PANEL

Terms of reference

1. To oversee, review and to recommend amendments to the constitution.
2. To make recommendations to council assembly for the award of the Honorary Freedom of the Borough and Honorary Aldermen and to grant Civic Awards.

Membership

The political group whips of each party represented on the council.

APPENDIX F

NOTE: Additional text is shown in the **bold/italics** and deleted text is shown by a strikethrough.

PART 3G: MATTERS RESERVED TO THE LICENSING COMMITTEE ~~AND ITS SUB-COMMITTEES~~, THE HEAD OF SERVICE AND OFFICER PANEL EXERCISING LICENSING FUNCTIONS

Licensing committee to

- (a) Approve the council's policies in respect of all licensing and registration matters, except the ~~licensing statement~~ **statement of licensing policy and the statement of gambling policy**⁵
- (b) To establish policies and procedures for considering and determining additional licensing functions conferred on the authority by statute.

Licensing committee and its sub-committees to exercise licensing functions to consider:

- 3. Any application for the grant, renewal, variation or transfer of any general safety certificate in respect of sports stadium or regulated stands;
 - (c) Any application for a personal licence, which is the subject of a police objection.
 - (d) Any application for a personal licence by a person with unspent criminal convictions.
 - (e) Any application for a premises licence or a club premises certificate, which is the subject of a relevant representation
 - (f) Any application for a provisional statement, which is the subject of a relevant representation
 - (g) Any application to vary a premises licence or club premises certificate, which is the subject of a relevant representation
 - (h) Any application to vary a designated premises supervisor, which is the subject of a police objection.
 - (i) Any application for a transfer of a premises licence, which is the subject of a police objection.
 - (j) Any applications for interim authorities, which are the subject of a police objection.
 - (k) Any application to review a premises licence or club premises certificate.
 - (l) Any decision to object when the local authority is a consultee and not the relevant authority considering the application.
 - (m) Any determination of a police objection to a temporary event notice.

⁵ The approval of the licensing and gambling statements of policy are matters reserved to council assembly.

- (n) Any application for the grant of new amusement arcade/prize bingo permits.
- (o) Any application for the grant, renewal, variation or transfer of any sex establishment license.
- (p) New designations for sites for street trading.
- (q) Revocation of street trading licenses.
- (r) ~~To consider and determine the following applications in accordance with the London Government Act 1963 and associated legislation:⁶~~

~~1. any opposed application for the grant, renewal, transfer or variation of annual public entertainment's or night café licence where there is evidence which gives rise to consideration of whether the applicant is a fit and proper person;~~

~~2. any opposed application for the new annual grant of a public entertainment's licence in respect of any premises capable of accommodating 150 or more persons;~~

~~3. any opposed application for either the new annual grant of a public entertainment's licence or application for the variation of an existing licence which seeks hours of operation beyond the latest hour permitted for the sale of alcohol under a justices special hours certificate (i.e. 2 am weekdays and midnight on Sunday);~~

~~4. the revocation of any licence following the successful prosecution of the holder for breach of licence terms, conditions and restrictions;~~

~~5. the non-renewal of any licence following concerns raised by officers regarding the manner of operation of the premises under its licence;~~

~~6. any application for consent to provide striptease or hypnotism or like entertainment;~~

- ~~(s) applications made in respect of occasional licenses over 28 days in any 12 month period.~~

19. To determine the revocation of any licence following successful prosecution of the holder for breach of licence terms, conditions and restrictions.

20. Any application for licence to provide striptease or hypnotism or like entertainment.

Matters delegated to the head of service

1. Any application for a personal licence, which is without police objection.
2. Any application for a premises licence or a club premises certificate if no relevant representation has been made.

⁶ The licensing committee or community councils previously considered these applications. The functions have now been returned to the licensing committee with effect from February 7 2004.

3. Any application for a provisional statement if no relevant representation has been made.
4. Any application to vary a premises licence or club premises certificate if no relevant representation has been made.
5. Any application for a transfer of a premises licence, which is without police objection.
6. Any applications for interim authorities, which are without police objection.
7. Any decision on whether a complaint is irrelevant frivolous or vexatious.

Matters delegated to the head of service and considered by the licensing officer panel

The panel to make recommendations to the head of service on the following matters:

- ~~2. Any opposed application for the grant, renewal, transfer or variation of annual public entertainments or night café licenses which:

 - ~~(i) relates to a venue capable of accommodating fewer than 150 persons; or~~
 - ~~(ii) relates to an application made for operating hours within the terminal hours under a Justices special hours certificate; or~~
 - ~~(iii) where consideration of whether the applicant is a fit and proper person is not an issue;~~~~
- ~~3. Any opposed application for the grant of any occasional licence;~~
- ~~4. Any application for waiver of any part of the council's technical regulations or for any waiver of the council's rules of management;~~
- ~~5. Any application for renewal of provisional licences where specified public safety and / or acoustic sound insulation works have not been undertaken in the previous licence term;~~

1. Any application for the grant, renewal, variation or transfer of a night café licence.

2. All films submitted for local classification under the Cinemas Act 1985.

3. Any opposed application for the grant, renewal or transfer of a special treatments license.

NOTES

- (a) All matters not reserved as above are delegated to the appropriate chief officer, head of service or business unit manager, except that authority to initiate prosecutions is delegated to:

Licensing

- Strategic director of environment and leisure

- Head of street scene and public protection
- Head of waste management
- Environmental health and trading standards manager

Street trading

- Strategic director of environment and leisure
- Head of street scene and public protection
- Head of waste management
- Client and enforcement manager, waste management division
- Environmental health and trading standards manager

All matters reserved to the licensing officer panel can always be decided by the licensing committee or its sub-committees.

Each chief officer and/or head of service in making decisions under the above scheme is required to do so within the internal scheme of management for their own department. This will include appropriate monitoring arrangements, and dissemination of information both internally and externally to the council.

FINANCIAL STANDING ORDERS

- **NEW OR REVISED POST/FUNCTIONS.**

Article 12 – Officers

12.01 Management structure

- General.** The council may engage such staff (referred to as officers), as it considers necessary to carry out its functions.
- Chief officers.** The council will engage persons for the following posts who, with the exception of the borough solicitor, will be designated chief officers.
- In addition to the lead roles described below, all Chief Officers are responsible for the delivery of the Council's corporate plan and activities like community safety which span more than one department.

Post	Functions and areas of responsibility
*Chief Executive	Corporate and strategic management arrangements; strategic partnerships, governance, strategic policy adviser to the Council.
Strategic Director Housing	Housing functions.
*Strategic Director of Health and Community Services	Health and social care in respect of adults. (Statutory Director for adult services).
*Strategic Director of Children's Services	Health, education and social care of young people, under-5's/youth. (Statutory Director for children's services).
Strategic Director Regeneration	Regeneration and development control.
Strategic Director Environment and Leisure	Environment, transportation, highways, public protection, leisure and culture services.
*Strategic Director of Customer and Corporate Services	Corporate customer services, HR, ICT, accommodation and efficiency strategy.
Director of Education	Attainment, schools support, SEN, children's services in schools.
Finance Director	Financial management, debt management, corporate procurement, strategic risk management.

- Head of paid service, monitoring officer and finance director.** The council assembly will designate the following posts as shown:

Post	Designation
Chief executive	Head of paid service
Borough solicitor	Monitoring officer
Finance director	Chief finance officer

Such posts will have the functions described in article 12.02–12.04 below.

- e) **Structure.** The head of paid service will determine and publicise a description of the overall departmental structure of the council showing the management structure and deployment of officers. This is set out at part 7 of this constitution.

12.02 Functions of the head of paid service

- (a) **Undertaking duties of head of paid service.** The head of paid service shall undertake all duties designated under section 4 of the Local Government & Housing Act, 1989. These are personal functions and must be undertaken by the head of paid service personally. Where the head of paid service is also the chief executive he/she may delegate other functions that are not included in section 4.
- (b) **Discharge of functions by the council.** The head of paid service will report to council assembly on the manner in which the discharge of the council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (c) **Restrictions on functions.** The head of paid service may not be the monitoring officer but may hold the post of finance director if a qualified accountant.

12.03 Functions of the monitoring officer

- (a) **Maintaining the constitution.** The monitoring officer will maintain an up-to-date version of the constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the head of paid service and finance director, the monitoring officer will report to the council assembly (or to the executive in relation to an executive function) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the standards committee.** The monitoring officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the standards committee.
- (d) **Receiving reports.** The monitoring officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- (e) **Conducting investigations.** The monitoring officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the standards committee.
- (f) **Proper officer for access to information.** The monitoring officer will ensure that executive decisions, together with the reasons for those decisions and relevant

officer reports and background papers are made publicly available as soon as possible.

- (g) **Advising whether executive decisions are within the budget and policy framework.** The monitoring officer will advise whether decisions of the executive are in accordance with the budget and policy framework.
- (h) **Providing advice.** The monitoring officer will provide advice on the scope of powers and authority to take decisions, maladministration, impropriety, probity and budget and policy framework issues to all councillors and to officers. The monitoring officer shall also provide advice to officers and members in relation to personal and prejudicial interests.
- (i) **Appointment of a deputy.** The monitoring officer shall appoint a deputy to act in his/her absence and when the monitoring officer is unable to act as defined in section 5 of the Local Government & Housing Act, 1989.
- (i) **Restrictions on posts.** The monitoring officer cannot be the finance director or the head of paid service.
- (k) **Proper officer for freedom of information.** The monitoring officer will act as the “qualified person” for the purposes of freedom of information requests and application of the public interest tests.

12.04 Functions of the finance director

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the head of paid service and the monitoring officer, the director of finance will report to the council assembly or to the executive in relation to an executive function and the council’s external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The finance director is the officer appointed by the council to have responsibility for the administration of the financial affairs of the council in line with section 151 of the Local Government Act 1972 which states that ‘every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs’.
- (c) **Contributing to corporate management.** The finance director will contribute to the corporate management of the council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The finance director will provide advice on the scope of powers and authority to take decisions, mal-administration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- (e) **Give financial information.** The finance director will provide financial information to the media, members of the public and the community.
- (f) **Constitute a pensions advisory panel.** The finance director will constitute a pensions advisory panel and take into account the panel’s advice when performing the following functions:

- a) establishing and reviewing the strategic investments objectives
- b) reviewing the definition of the investment return target most likely to satisfy this investment objective.
- c) considering what constraints, if any, should apply to the invested assets and monitor compliance.
- d) establishing and reviewing the strategic asset allocation (benchmark) that is likely to meet the investment return target.
- e) considering and reviewing the appropriateness of the fund structure i.e. the delegation of powers to managers, set boundaries for the manager's discretion, consider what manager return targets are likely to achieve the investment return target.
- f) monitoring the performance of the investment managers at least once every three months, and from time to time consider the desirability of continuing or terminating the appointment of investment managers. In monitoring performance of investment managers, the panel should consider:
 - The investments made by the managers.
 - Their input to the process and the value of their advice.
 - Investment returns and risk against established targets.
 - Manager compliance with the fund's requirements.
 - Discussion of results with managers.
- g) considering policy matters in relation to the pension scheme and the council's early retirement policy
- h) considering applications, from other bodies, for membership of the council's pension scheme
- i) monitoring early retirements
- j) monitoring costs incurred in administering the pension scheme, including
 - management and other direct costs
 - transaction (dealing) costs.

(g) Constitution of the pensions advisory panel

- (i) The pensions advisory panel will be constituted as follows:
 - Three members (one from each political group) who have received the appropriate training; one of those members will chair the panel;
 - Three officers (the finance director, an officer with specialist knowledge on the pensions scheme and the head of human resources or their equivalents);
 - Two independent advisers (non-voting); and
 - Two representative appointed by the constituent trade unions representing beneficiaries (non-voting).
- (ii) Decisions should aim to be reached by consensus. Where agreement cannot be reached then, a majority vote will apply. Voting rights are restricted to members and officers, with the chair having the casting vote if required.
- (iii) Decisions of the panel will be treated as advice to the finance director.
- (iv) To be quorate at least three voting members of the panel must be present, plus at least one independent adviser. At least one of the voting members must be an officer.

(h) Treasury management. All treasury management decisions are delegated to the finance director in line with financial standing orders. S/he will report on an annual basis to council assembly.

- (i) **Cap and trading schemes.** The finance director must be consulted on all decisions relating to the landfill allowance trading scheme (LATS) and any similar cap and trading schemes.
- (j) **Risk management.** The finance director will be responsible for ensuring awareness of and compliance across the council with risk management responsibilities and protocols as they impact upon day-to-day operations and major project activities and for reporting on risk management as appropriate.
- (k) **Fraud.** The finance director is responsible for management of the investigation process for all suspected cases of fraud, corruption, financial loss or malpractice.

12.05 Duty to provide sufficient resources to the monitoring officer and director of finance

The council will provide the monitoring officer and finance director with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

12.06 Conduct

Officers will comply with the officers' code of conduct, when issued⁷ and the protocol on officer/member relations set out in part 5 of this constitution.

12.07 Employment

The recruitment, selection and dismissal of officers will comply with the officer employment rules set out in part 4 of this constitution.

⁷ The officer code of conduct will be issued by the Secretary of State. Southwark currently has an internal code of conduct, which does not form part of this constitution. Once the national code has been issued it will be deemed to form part of the terms or conditions of employment of qualifying employees. The definition of a "qualifying employee" will be specified in regulations to be issued under section 82 of the Local Government Act 2000.

SCHEDULE OF OTHER CONSTITUTIONAL CHANGES FOR 2006/07

No.	Issue / Constitution Reference	Current Position	Recommendation	Comment
1.	Executive Procedure Rules – Quorum (Page 14 – 15)	<p>The current wording of section 2.3 is as follows:</p> <p>Quorum</p> <p>(a) The leader or deputy leader must be present in order for the meeting to proceed.</p> <p>(b) The quorum for a meeting of the executive, or a committee of it, shall be one quarter of the total number of members of the executive including the leader/deputy leader.</p>	<p>Delete (a)</p> <p>Amend (b) to read:</p> <p>“The quorum for a meeting of the executive, or a committee of it, shall be one quarter (or 3 whichever is larger) of the total number of members of the executive including the leader or deputy leader.</p> <p>“The quorum for a meeting of an executive committee shall be one quarter of the total number of members on the committee or 3 whichever is larger.”</p> <p>Note: it is proposed that text with a line through it be deleted and text that is in bold be inserted.</p>	<p>The quorum is a matter for local choice and the current wording reflects that set out in the modular constitution issued by the ODPM. This change seeks to ensure consistency on the quorum rules as clause (b) should read “leader or deputy leader” rather than “leader/deputy leader”.</p> <p>In Southwark the deputy leader has been added to those who needed to be present at meetings to provide greater flexibility.</p> <p>The option clarifies the position on the executive by setting out more clearly that either the leader or deputy leader should be present for full executive meetings, but that in the case of executive committees allows for these to be chaired by executive members.</p>