



COUNCIL ASSEMBLY (ANNUAL MEETING)

WEDNESDAY MAY 21 2008

SUPPLEMENTAL AGENDA No. 1

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CONSTITUTIONAL REVIEW – DRAFT CONSTITUTION

This supplemental agenda sets out the draft constitution in appendices 1-11. The document has been circulated as a separate supplemental agenda due to its size. Changes are shown as follows:

- additions (shown as underlined);
- deletions (shown with a strike through);
- comments (added to explain reasons for main changes).

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APPENDIX 1

Southwark's Constitution

The Council

Council composition - framework

Southwark is made up of 21 wards, with 63 councillors (three from each ward) leading the council. Each of these councillors sits on the council assembly, which is the 'sovereign body' of the council. The assembly is chaired by the Mayor of Southwark.

The council assembly is responsible for approving the budget, developing policies, constitutional decisions and deciding on local legislation.

There is no overall majority which means that the council is politically "hung" or "balanced". This makes for decision-making in a challenging environment.

Four political parties are represented on the council. The Labour Party holds 29 seats, the Liberal Democrat Party 27 seats, the Conservative Party 6 seats and there is one Green Party member. The council has a joint Liberal Democrat and Conservative administration.

An executive, which is a senior group of councillors, working in a similar way to the government's cabinet, is headed by the leader and made up of ten councillors, each holding a special 'portfolio' of responsibility. The executive is responsible for leading the community planning and consultation process, search for best value, drafting the budget, deciding on policies, and taking decisions on resources and priorities. The portfolio responsibilities are currently:

- Councillor Nick Stanton, Leader
- Councillor Kim Humphreys, Deputy Leader and executive member for Housing Management
- Councillor Columba Blango, Citizenship, Equalities and Communities
- Resources
- Councillor Toby Eckersley, Resources
- Councillor Jeff Hook, Community Safety
- Councillor David Noakes, Health and Adult Care
- Councillor Lisa Rajan, Environment
- Councillor Caroline Pidgeon, Children's Services and Education
- Councillor Paul Noblet, Regeneration
- Councillor Lorraine Zuleta, Culture, Leisure and Sports

The majority opposition party in Southwark Council is the Labour group who have a shadow executive with spokespeople for each portfolio within the executive.

What is the constitution?

The constitution is a written legal document that guides the council on its decision making processes. The legal framework for the constitution is agreed by central

government. It provides a basis and framework for the councillors and officers to work within, and ensure honesty, accountability and lawful decision making.

Southwark council has agreed a constitution which sets out how the council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, open, and accountable to local people. Some of these procedures are required by law; others are a matter for the council to choose. The constitution may be amended from time to time according to the law and the opportunities contained in the constitution for making such changes.

What is contained within the constitution?

The constitution is divided into a number of sections: Part 2 contains the 16 articles describing the key individual components involved in council business including how the council operates, its committees and the functions of chief officers; Part 3 sets out who is responsible for taking decisions, including council assembly, executive, committees, community councils and officers; Part 4 sets out the procedure rules governing how the council takes decisions. The access to information procedure rules set out the requirements placed on the council to make information easily available so that reports and decisions are published and available to the community. It includes the financial standing orders and contract standing orders. More detailed ways of working are set out in the Member and Officer Protocol and the Communications Protocol at the end of the constitution.

Article 1 of the constitution commits the council to clear, open and accountable decision making, which is inclusive and provides opportunity for community involvement whilst ensuring effective and efficient use of resources. The rights of residents in relation to the constitution are set out in this summary.

How the Council decision making process operates

Council assembly

The constitution allocates responsibility for particular functions to council assembly, including approving the budget and policy framework. The policy framework will include the approval of strategies as defined in the constitution like the corporate plan and the unitary development plan. These are set out in part 3A, section 5 of the constitution.

The council has the power to delegate any of its functions, within certain limitations set by law, e.g. there are some decisions council assembly must take itself such as setting the level of council tax. By law the full executive has overall responsibility for the executive functions of the council. Council assembly will delegate the non-executive responsibilities of the council to its committees. Each meeting of the council and decision makers is listed in Part 3 of the constitution. This sets out:

- The roles and functions of the meeting or decision maker – this is a broad description of the areas of responsibility, sometimes known as the “terms of reference”.
- The matters reserved for decision by the meeting or decision maker.

Any area of responsibility that is not specifically listed under the matters reserved for a meeting or individual decision maker is deemed to be delegated to the senior

officers in the relevant department (the most senior officers are the chief officers and the heads of service who report to them).

Executive functions

The executive is responsible for developing and implementing the budget and policy framework and overseeing the running of council services on a day-to-day basis. These are called “executive functions”. A decision on an executive function can be taken by full executive, executive committees, individual executive members or officers. Part 3 of the constitution defines who should take these decisions.

Full executive. The role of the full executive is to:

- Lead the community planning process and search for best value, with advice from overview and scrutiny committees, community councils and any other appropriate people or organisations.
- Draft the budget and policy framework to be approved by council assembly.
- Take decisions on resources and priorities, together with local people and agencies in the community, to carry out the budget and policies as approved by council assembly.
- Oversee the services delivered by the council.
- Make sure that consultation on the development of the council's policy framework, other important documents and key decisions are carried out.
- Be the means of forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

The full executive meets monthly, normally at 7.00pm. The executive procedure rules govern the way it takes decisions.

Major projects board. This is an executive committee comprising of the leader and four other executive members who are the deputy leader and executive member for housing management, resources, children’s services and education and regeneration portfolios. The committee has powers given to it from the full executive to consider and agree delivery plans for some of the major projects within the borough. All the powers of the full executive are within its remit.

Individual decision making. This means that an individual executive member will make decisions on their area of responsibility.

Chief officer decisions. Matters kept for chief officers normally relate to the day to day running of departments and major decisions that chief officers are able to take.

Forward plan

One essential part of the decision making process is a statutory document called the ‘forward plan’.

This document is published by the council and sets out all forthcoming **key decisions** that the executive, individual executive members and officers intend to take for a four-month period and provisionally for a further eight months. It also includes budget and policy framework decisions where the full executive is scheduled to make a recommendation to council assembly. Not all decisions will be set out in

this document; routine and day-to-day decisions will be delegated to officers in the course of daily duties and work. Key decisions are defined as:

1. Those which are subject to a general financial level

Key decisions are those which result in the council incurring spending or savings of £500,000 or more.

2. Those which have a significant impact on communities

Key decisions are those which are likely to be significant in terms of their impact on communities and specifically in one ward or more.

Regulatory and other Committees

The council assembly delegates responsibility to undertake the non-executive functions of the council to the following committees:

- **Planning committee** - to decide on large planning applications at a certain level.
- **Licensing committee** - to approve the council's policies in relation to all licensing and registration matters.
- **Licensing sub-committee** - to consider licensing applications.
- **Appointments committee** – the appointment of senior officer posts within the council's structure.
- **Disciplinary appeals committee** - to look at dismissal decisions of capability/disciplinary panels on the application of the dismissed employee.
- **Corporate parenting committee** – responsible for overseeing and monitoring services provided to looked after children in the borough.
- **Audit and governance committee** – to consider the internal audit annual report, risk management and governance, including approving the statement of accounts on an annual basis.
- **Standards committee** - to maintain high standards of conduct and investigate complaints against elected councillors and independent members who have contravened the code of conduct.

Community Council Decision Making

The role of community councils is to promote the involvement of local people and to bring decision making closer to local people. Community councils take decisions about local matters and at present have some responsibility for local decisions in the following key areas: local planning, the cleaner, greener, safer capital programme, traffic management, appointment of local education authority governors to local nursery and primary schools and agreeing schemes for the community project bank.

Community councils also offer an important mechanism for formal consultation on council wide policies and strategies.

Community councils are divided by geographical areas as follows:

- Borough and Bankside
- Bermondsey
- Rotherhithe
- Walworth
- Peckham
- Camberwell
- Nunhead and Peckham Rye
- Dulwich

The membership of community councils includes those councillors who are members for the electoral wards wholly or partly contained within the area of each community council. The community councils meet every six weeks, with a separate planning meeting every four weeks. Community councils meet in local venues around the borough.

Public Participation and Involvement in the Constitutional Process

The council welcomes the public and community views as part of the constitutional process. Ways exist within the council for these views to be considered, whether that be through consultation processes, attendance at local meetings (e.g. community council meetings) or contact with a local ward councillor.

There are various means by which to achieve this involvement as set out below. In case of deputation requests, it would normally be expected that there has been some initial contact with council officers, prior to this request, to resolve the issue at a local level. When this has not been possible, the opportunity exists for the community to contact members at the public meeting to tell them of their concerns and suggestions for improvement.

General

- **Consultation** – this means that the council will ask local people what they think about how we are developing and delivering services and what they think our policies should be.
- **Contacting** the appropriate department within the council.
- **Local meetings** – community council, residents meeting, area forums or any other local meeting.
- **Complaint procedure** if early contact has not solved the query/problem.
- **Complain to the Local Ombudsman** – if council procedures have not been followed and if the council's complaints procedure has not worked.
- Contact with a **local ward councillor**.
- **Complain to the Standards Committee** – where a citizen believes that councillor's behaviour has breached the members' code of conduct.

- **Citizens on the electoral roll** for the area have the right to vote and sign a petition to request a referendum for a relevant form of **executive/leader & cabinet executive or mayor and cabinet executive**. The council will be requested by the end of December 2009 to pass a resolution on its leadership model and the electorate will be consulted on this beforehand.
- **Freedom of information requests**. The Freedom of Information Act 2000 (FOI) gives the public a general right to obtain information held by the council. Further information can be obtained via the following link on the council's website which also gives advice on how these requests can be made:
<http://www.southwark.gov.uk/YourCouncil/FreedomofInformation/>

Meetings

- **Attend a council meeting** for example, a community council meeting. All meetings are open to the public, except in certain circumstances when the meeting will discuss a confidential report. Dates of meetings can be found in the council's diary *Add link*.
- **Looking at public council meeting documents**. Most meeting papers and decisions are published on the council's website. *Add link*. Some information may not be open to the public because of the nature of the business to be transacted or the nature of the proceedings. This must meet legal requirements that are set out in the access to information procedure rules in the constitution.
- **Deputations**. Deputations can be made by a group of people resident or working in the borough about an issue of local concern. There are several routes for such requests to be directed including the executive or community council meetings. Council assembly may receive deputations if it is the decision making body.
- **Petitions**. Asking a ward councillor to present a petition with regard to a local campaign at a local community council meeting or council assembly. A petition is a written statement about a local 'campaign', supported by signatures of local residents or those directed affected.
- **Public questions**. Community council meetings, executive or council assembly.

Maintaining High Standards

The standards of conduct or behaviour for councillors are set out in "The code of conduct for members" in Part 5 of the constitution. The code includes a number of duties and responsibilities including:

- the need to act fairly and properly at all times
- treating others with respect
- not to do anything which would bring the authority into disrepute
- acting in accordance with the council's reasonable requirements.

All councils are required to set up a **standards committee** to ensure that councillors have high standards of conduct. In Southwark, the standards committee is made up

of both elected councillors and independent members. An independent member will chair the committee. The idea of having independent members is to strengthen the independence and effectiveness of the committee. The committee is responsible for investigating complaints against elected councillors and independent members who have contravened the code of conduct. Complaints at a certain level will be investigated by the Standards Boards for England which is the body responsible for the strategic oversight of local standards committees.

The relationship between members and officers is governed by the rules set out in the member and officer protocol. The way that the council uses publicity is governed by the communications protocol.

Scrutiny of decisions

The council's overview and scrutiny arrangements involve an overview and scrutiny committee and a number of sub-committees. Scrutiny committees take a close look at council decisions and activities and call for the council to be open and accountable. They examine services provided by the council and review the council's budget and policies. Scrutiny can look at, or 'call-in', decisions made by the executive and recommend decisions are changed or reconsidered.

The committees have the power to inquire into matters of local concern. They may review other organisations that provide services to Southwark residents. Scrutiny may also review some statutory services including the National Health Service (NHS).

Scrutiny does not look at individual complaints but looks at issues that affect a number of people.

Contacts

The council's website contains contact details for staff who deal with council meetings, including the constitutional team, community council team and the scrutiny team. The contacts can be found at:

- Constitutional Team, Town Hall, Peckham Road, London SE5 8UB (020 7525 7030) constitutional.team@southwark.gov.uk
- Scrutiny Team, Town Hall, Peckham Road, London SE5 8UB (020 7525 4350) scrutiny@southwark.gov.uk
- Community Council Team, Town Hall, Peckham Road, London SE5 8UB (020 7525 7514) communitycouncil@southwark.gov.uk

Other contacts within the council can be found at:

- <http://www.southwark.gov.uk/Public/Home.aspx>

Useful links

A copy of the council's constitution can be accessed via the following link on the council's website: [Southwark council - Constitution](#)

Dates of meetings can be found in the council's diary: *Add link.*

Meeting papers and decisions are published on the council's website. *Add link.*

PART 2 - ARTICLES

Article 1 – The constitution

1.01 Powers of the council

The council will exercise all its powers and duties in accordance with the law and this constitution.

~~1.02 The constitution~~

~~This constitution, and all its appendices, is the constitution of the council of the London Borough of Southwark.~~

Comment [IM1]: Deleted. This section does not serve a useful purpose.

1.03 Purpose of the constitution

The purpose of the constitution is to:

1. enable the council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision making;
3. help councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and,
8. provide a means of improving the delivery of services to the community.

1.04 Principles of decision making

Comment [IM2]: Clause moved from Article 13.02. Becomes new clause Article 1.04.

All decisions of the council will be made in accordance with the following principles:¹

- (a) the link between strategy and implementation must be maintained;
- (b) decision making generally, whether by individual officers, individual executive members or the executive collectively, should have reference to the policy framework;
- (c) respect for human rights, law and probity;
- (d) due consultation and the taking of professional advice from officers;
- (e) proportionality (i.e. the action must be proportionate to the desired outcome);
- (f) a presumption in favour of openness; and
- (g) clarity of aims and desired outcomes.

1.04 Interpretation and review of the constitution

Comment [IM3]: Review of this article is required.

Where the constitution permits the council to choose between different courses of action, the council will always choose that option which it thinks is closest to the purposes stated above.

~~The council will monitor and evaluate the operation of the constitution as set out in article 15.~~

1.05 Changes to the constitution

Comment [IM4]: This is an expanded and amended version of Article 15.03. This new clause sets out more clearly who can change the constitution.

DRAFT OUTLINE

- (a) Subject to (b) below, any changes to the constitution which can only be approved by the council assembly will require the prior consideration of the proposal by the constitutional steering panel.
- (b) The constitution and its appendices will be changed as follows:

Comment [IM5]: Similar clause currently set out in Article 15.03(a).

Part 1 - Summary - Agreed by CA, subsequently amended by Strategic Director of Legal & Democratic Services to keep up to date. Changes notified to all members by monitoring officer.

Part 2 - Articles - Agreed by CA. Exception - officer structure agreed and published by chief executive

Part 3 - Who takes decisions - Agreed by CA.

Part 4 - Procedure rules

- **Council assembly** - Agreed by CA.
- **Committee** - Agreed by CA.
- **Access to Information** - Agreed by CA.
- **Budget & PF, Executive, OSC** - Agreed by CA.
- **CSO** - Agreed by CA, with minor changes (as defined in the CSOs) being made by the monitoring officer, after consultation with the finance director. Changes notified to all members by monitoring officer.

¹(a) to (b) local proposals; (c) to (g) statutory guidance; (c) law and probity added to modular constitution principle.

- **FSO** - Agreed by CA, with minor changes (as defined in the FSOs) being made by the finance director, after consultation with the monitoring officer. Changes notified to all members by monitoring officer.

- **Officer Rules** - Agreed by CA.

Part 5 - Code of Conduct - Agreed by CA, but not part of constitution review.

Part 6 - Protocols

Member and Officer -

Communications -

Member Allowances - Agreed by CA, but not part of constitution review.

Part 7 - Other Information

Glossary - Agreed and published by Strategic Director of Legal & Democratic Services to keep up to date. Changes notified to all members by monitoring officer.

Index - Agreed and published by Strategic Director of Legal & Democratic Services to keep up to date. Changes notified to all members by monitoring officer.

Flow charts - Agreed and published by Strategic Director of Legal & Democratic Services to keep up to date. Changes notified to all members by monitoring officer.

List of Councillors - Agreed and published by Strategic Director of Legal & Democratic Services to keep up to date. Changes notified to all members by monitoring officer.

Anything else in this section - e.g. back ground information on constitution or decisions making - Agreed and published by Strategic Director of Legal & Democratic Services to keep up to date. Changes notified to all members by monitoring officer.

Comment [IM6]: Protocol under review. Awaiting advice.

Comment [IM7]: Protocol under review. Awaiting advice.

Article 2 – Members of the council

2.01 ~~Composition and eligibility~~

(a) ~~**Composition.** The council is comprised of 63 members, otherwise called councillors. Three councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.²~~

Comment [IM8]: Deleted because this issue is now covered in the revised summary.

(b) ~~**Eligibility.** Only registered voters of the London Borough of Southwark or those living or working there will be eligible to hold the office of councillor.~~

2.02 ~~Election and terms of councillors~~

(a) ~~**Election and terms:** The regular election of councillors will be held on the first Thursday in May every four years beginning in 2002. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.~~

Comment [IM9]: Deleted because this issue is now covered in the revised summary.

(b) ~~**Councillors elected at a by-election:** Councillors elected at a by-election will take office immediately on signing the declaration of acceptance of office. They will hold office for the remainder of the term for which they were elected.~~

2.03 ~~Roles and functions of all councillors~~

(a) ~~**Key roles.** All councillors will:~~

- represent their communities and bring their views into the council's decision making process, i.e. become the advocate of and for their communities;
- deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
- maintain the highest standards of conduct and ethics; and,
- contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making functions.
- Sit on council assembly.

(b) ~~**Rights and duties**~~

Comment [IM10]: Deleted to avoid duplication because this issue is covered in the access to information procedure rule. Article 2.03(b)(iii) is covered by code of conduct.

² ~~The London Borough of Southwark (Electoral Changes) Order 1999.~~

~~(i) Councillors will have such rights of access to such documents, information, land and buildings of the council as are necessary for the proper discharge of their functions and in accordance with the law.~~

~~(ii) Councillors will not make public information which is confidential or exempt without the consent of the council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.~~

~~(iii) For these purposes, "confidential" and "exempt" information are defined in the access to information rules in part 4 of this constitution.~~

~~(iv) Councillors have the right to submit freedom of information requests.~~

~~2.04 **Key tasks of executive members, chairs of overview & scrutiny committee/sub-committees, other committees and community councils**~~

~~(a) Executive members will participate in the executive and implement agreed policies by taking responsibility for any portfolio allocated by the authority, including providing a lead on and proposing new policy, strategy, programming, budget and service standards, and leading performance review, as well as acting as spokespersons within and outside the authority for the service/function.~~

~~(b) Overview & scrutiny committee and sub-committee chairs will lead the scrutiny function, propose to the appropriate committee/sub-committee a programme of work devised in consultation with senior management, achieve a balance of service interests, to achieve broad coverage across all services over time, propose arrangements for the involvement of community or other non-councillor representatives, and own and present the resulting reports (to the council assembly or the executive, including any minority views which might be reported separately).~~

~~(c) Chairs of other committees of the authority will take specific responsibility for the development of that committee's work plan and represent the service or function within and outside the authority as necessary to enable it to deliver its objectives consistently with corporate standards.~~

~~(d) Chairs of community councils will take specific responsibility for the development of the community council's work plan, propose arrangements for the involvement of the community, and participate in consultation and decision making in the local area.~~

Comment [IM11]: Article 2.04 (a) to (d) moved to the articles on executive, scrutiny, committees and community councils respectively.

~~2.05 **Conduct**~~

~~Councillors will at all times observe the members' code of conduct and the member and officer protocol set out in parts 5 and 6 of this constitution.~~

Comment [IM12]: Duplication.

~~2.06 **Allowances**~~

Comment [IM13]: Duplication.

~~Councillors will be entitled to receive allowances in accordance with the members' allowances scheme set out in part 6 of this constitution.~~

Article 3 – Citizens and the council

Comment [IM14]: This article has been updated and included in the expanded summary.

3.01 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the access to information rules in part 4 of this constitution:

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of constitution.³
- (b) **Information.** Citizens have the right to:
- (i) attend meetings of the council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) attend meetings of the executive when key decisions are being considered;
 - (iii) find out from the forward plan what key decisions will be taken by the executive and when;
 - (iv) submit freedom of information requests;
 - (v) see reports and background papers, and any records of decisions made by the council and the executive; and,
 - (vi) inspect the council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the council's question time, bring deputations, contribute to investigations by scrutiny sub-committees and participate at community councils.
- (d) **Customer feedback.** Citizens have the right to complain to:
- (i) the council itself under its corporate complaints policy;⁴
 - (ii) the Ombudsman after using the council's own corporate complaints policy; and,
 - (iii) the Standards Board for England about a breach of the members' code of conduct.

3.02 Citizens' responsibilities

Comment [IM15]: Deleted. Covered by the common law.

Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the council, councillors or officers.

³ Southwark Council held a referendum on January 31 2001. Regulations provide that a further referendum may not be held for a period of five years following that referendum.

⁴ The corporate complaints policy can be found on the council's website.

Article 4 – Council assembly

Comment [IM16]: New introduction added. Current wording moved to new Part 3 of the constitution and consolidated to remove necessary duplication

4.01 Meanings Council assembly

All councillors sit on the council assembly. The assembly is chaired by the Mayor of Southwark.

The council assembly is responsible for approving the budget, agreeing the policy framework, constitutional decisions and deciding on local legislation.

- ~~(a) **Policy framework.** The policy framework contains those plans and strategies that are only to be approved or adopted by the council assembly. A full list of the plans and strategies is set out in Part 3A of the constitution: Responsibility for Functions (Matters reserved to council assembly).~~
- ~~(b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.~~
- ~~(c) **Housing land transfer.** Housing land transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.~~

4.02 Functions of council assembly

Only the council assembly will exercise the following functions:

- ~~(a) adopting and changing the constitution;~~
- ~~(b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any housing land transfer;~~
- ~~(c) subject to the urgency procedure contained in the access to information procedure rules in part 4 of this constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;~~
- ~~(d) appointing the leader and members of the executive;⁵~~

⁵ See article 7.04, Other executive members regarding changes during the course of the year.

- ~~(e) agreeing and/or amending the terms of reference for committees and community councils, deciding on their composition and making appointments to them;~~
- ~~(f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the council assembly;~~
- ~~(g) adopting an allowances scheme under article 2.06;~~
- ~~(h) changing the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough;~~
- ~~(i) confirming the appointment of the head of paid service;~~
- ~~(j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills;~~
- ~~(k) all local choice functions set out in part 3 of this constitution which the council assembly decides should be undertaken by itself rather than the executive; and,~~
- ~~(l) all other matters which, by law, must be reserved to council assembly.~~

~~4.03 Council assembly meetings~~

~~There are four types of council assembly meeting:~~

- ~~(a) Annual (Mayor-making) meetings;~~
- ~~(b) Annual (constitutional) meetings;~~
- ~~(c) Ordinary meetings; and,~~
- ~~(d) Extraordinary meetings.~~

~~Council assembly meetings will be conducted in accordance with the council procedure rules in part 4 of this constitution.~~

~~4.04 Responsibility for functions~~

~~The council will maintain the tables in part 3 of this constitution setting out the responsibilities for the council's functions, which are not the responsibility of the executive.~~

Article 5 – Role and function of the Mayor

Comment [IM17]: Title amended to reflect content of the article.

Deleted: Chairing the council assembly

5.01 Title of the person chairing council assembly meetings

The person elected to chair the meetings of the council assembly shall be referred to as the “Mayor”.

5.02 Role and function of the Mayor

The Mayor will be elected by the council at the annual council assembly meeting. The Mayor may then appoint a Deputy Mayor.

The Mayor will have the following roles and functions:

- (a) to uphold and promote the purposes of the constitution, and to interpret the constitution when necessary;
- (b) to preside over meetings of the council assembly so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (c) to ensure that the council assembly meeting is a forum for the debate of matters of concern to the local community and the place at which councillors who are not on the executive are able to hold the executive to account;
- (d) to promote public involvement in the council's activities;
- (e) to attend such civic and ceremonial functions as the council and he/she determines appropriate; and,
- (f) to receive any request from the leader for a council assembly meeting to be convened to reconsider a decision in respect of the budget and policy framework, in accordance with the council's conflict resolution mechanism.

5.03 Role of the Deputy Mayor

The Deputy Mayor may, if for any reason the Mayor is unable to act or the office of Mayor is vacant, discharge all the functions which the Mayor might otherwise discharge, except that the Deputy Mayor shall not take the chair at a meeting of the council assembly unless specifically appointed by the meeting to do so.

Article 6 – Overview & scrutiny committee and sub-committees

6.01 The council will appoint an ~~coordinating~~ overview & scrutiny committee to discharge the functions conferred by section 21 of the Local Government Act 2000. The overview & scrutiny committee will appoint ~~themed~~ sub-committees and determine their ~~themes and specific~~ terms of reference.

Comment [IM18]:
Consistency. Wording changed so it is in line with overview and scrutiny procedure rules.

6.02 General role

Within their terms of reference, overview & scrutiny committee and its sub-committees will:

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions;
- (ii) make reports and/or recommendations to council assembly and/or the executive in connection with the discharge of any functions; and,
- (iii) consider any matter affecting the area or its inhabitants.

6.03 Specific functions

Policy development and review. Overview & scrutiny committee and its sub-committees may:

- (i) assist council assembly and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question members of the executive and chief officers about their views on issues and proposals affecting the area;
- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and,
- (vi) decide whether to consult with community councils as part of the consideration of the budget and policy framework.

Scrutiny. Overview & scrutiny committee and its sub-committees may:

- (i) review and scrutinise the decisions made by and performance of the executive and council officers both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question members of the executive and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the executive and/or council assembly arising from the outcome of the scrutiny process or refer entire reports produced as the result of the scrutiny process to be debated and noted at council assembly;

- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview & scrutiny committee/sub-committee and local people about their activities and performance; and,
- (vi) question and gather evidence from any person (with their consent).

6.04 **Annual report**

Overview & scrutiny committee will report annually to council assembly on the workings of the overall scrutiny function, and may make recommendations for future work programmes and amended working methods if appropriate.

6.05 ~~Terms of reference of the coordinating overview & scrutiny committee~~

Comment [IM19]: Duplication.

~~The terms of reference of the coordinating overview & scrutiny committee are set out within the overview & scrutiny procedure rules in part 4 of this constitution.~~

6.06 ~~Proceedings of overview & scrutiny committee and sub-committees~~

Comment [IM20]: Duplication.

~~The overview & scrutiny committee and its sub-committees will conduct their proceedings in accordance with the overview & scrutiny procedure rules in part 4 of this constitution.~~

6.05 **Key tasks of chairs of overview & scrutiny committee and sub-committees**

Comment [IM21]: Moved from Article 2.04.

Overview & scrutiny committee and sub-committee chairs will lead the scrutiny function, propose to the appropriate committee/sub-committee a programme of work devised in consultation with senior management, achieve a balance of service interests, to achieve broad coverage across all services over time, propose arrangements for the involvement of community or other non-councillor representatives, and own and present the resulting reports (to the council assembly or the executive, including any minority views which might be reported separately).

Article 7 – The executive

7.01 Role

The executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this constitution. The role and functions of the executive are set out in the terms of reference in Part 3B of this constitution.

7.02 Form and composition

The executive will consist of the leader together with no less than two and no more than nine councillors appointed to the executive by the council assembly.

7.03 Leader

The leader will be a councillor elected to the position of leader by the council. The leader will hold office until:

- (a) he/she resigns from the office; or,
- (b) he/she is suspended from being a councillor under part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or,
- (c) he/she is no longer a councillor; or,
- (d) the end of the municipal year in which he/she is elected to the position of leader save that the council assembly may remove the leader from office at an earlier date; or,
- (e) he/she is removed from office by resolution of the council assembly.

7.04 Other executive members

Other executive members shall hold office until:

- (a) they resign from office; or,
- (b) they are suspended from being councillors under part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or,
- (c) they are no longer councillors; or,
- (d) the end of the municipal year in which they are elected to the position of executive member save that the council may remove them from office, either individually or collectively, at an earlier date; or,
- (e) they are removed from office by resolution of the council.

If an executive member ceases to be a member of the executive because of reasons (a) to (e) above, the leader has the discretion as to whether or not to appoint a replacement.

During the course of the year the leader ~~also~~ has the discretion to change executive portfolios.

The leader also has the discretion to change the membership of executive committees during the course of the year.

Comment [IM22]: CSP recommendation. Any changes will be made using the same notification process set out in this clause for appointing replacement executive members or changing portfolios.

The leader shall communicate any such changes to the monitoring officer who shall circulate a formal notification to all members.

If an executive member is absent for a significant period of time, the leader has discretion as to whether he/she appoints an assistant to the executive member to discharge specific responsibilities in their absence. These responsibilities will not include formal decision making. In exercising his/her discretion the leader must consult with the monitoring officer. If after consulting with the monitoring officer the leader confirms a decision to appoint an assistant the leader will advise the council of the responsibilities allocated to the assistant and the period for which the assistant will act.

Any changes to executive members shall take effect after five working days unless an objection signed by at least five members is lodged, in which case the matter shall be referred to the next council assembly.

~~7.05~~ **Proceedings of the executive**

Comment [IM23]: Duplication.

~~Proceedings of the executive shall take place in accordance with the executive procedure rules set out in part 4 of this constitution.~~

~~7.06~~ **Responsibility for functions**

Comment [IM24]: Duplication.

~~A list will be maintained in part 3 of this constitution setting out which members of the executive, committees of the executive, community councils, officers or joint arrangements are responsible for the exercise of particular executive functions.~~

7.05 **Who may make executive decisions**

Comment [IM25]: New clause in article. This clause is currently Executive Procedure Rule 1.1. As it describes how the executive operates it has been included into this article.

The arrangements for the discharge of executive functions are set out in the executive arrangements adopted by the council. These arrangements may provide for executive functions to be discharged by:

The executive functions of the council may be discharged by:

Comment [IM26]: Clarification. The wording has been simplified to remove the reference to the current executive arrangements which were adopted in 2002.

Definition of executive arrangements to be add to glossary.

- (a) the executive as a whole;
- (b) a committee of the executive;
- (c) an individual member of the executive;
- (d) community councils;
- (e) an officer;
- (f) joint arrangements; or,
- (g) another local authority.

7.06 **Delegation by the leader**

Comment [IM27]: New clause in article. This clause is currently Executive Procedure Rule 1.2. As it describes how the executive operates it has been included into this article.

At the annual meeting of the council, the leader will present to the council a written record of delegations made by him/her for inclusion in

the council's scheme of delegation at part 3 to this constitution. The document presented by the leader will contain the following information about executive functions in relation to the coming year:

- (a) the extent of any authority delegated to executive members individually, including details of the limitation on their authority;
- (b) the terms of reference and constitution of such executive committees as the leader appoints, the names of executive members appointed to them, the vice-chair of the committees and the frequency of its meetings;
- (c) the nature and extent of any delegation of executive functions to community councils, any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year; and,
- (d) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

7.07 **The council's scheme of delegation and executive functions**

The council's scheme of delegation will be subject to adoption by the council assembly and may only be amended by the council assembly. The scheme of delegation is set out in part 3 of this constitution.

Comment [IM28]: New clause in article. This clause is currently Executive Procedure Rule 1.3. As it describes how the executive operates it has been included into this article.

7.08 **Key tasks of executive members**

Executive members will participate in the executive and implement agreed policies by taking responsibility for any portfolio allocated by the authority, including providing a lead on and proposing new policy, strategy, programming, budget and service standards, and leading performance review, as well as acting as spokespersons within and outside the authority for the service/function.

Comment [IM29]: Moved from Article 2.04.

Article 8 – Regulatory and other committees

8.01 Regulatory and other committees

The council will appoint the following committees to undertake non executive functions. Council assembly will delegate powers to these committees to discharge their relevant functions.

The council assembly shall establish the following:

- Appointments committee
- Audit and governance committee
- Corporate parenting committee
- Disciplinary appeals committee
- Licensing committee
- Overview & scrutiny committee
- Planning committee
- Standards committee

Comment [IM30]: Article takes in the list of committees previously listed in Part A. The council's committees will also be listed in the expanded summary.

8.02 Key tasks of chairs of regulatory and other committees

Chairs of other committees of the authority will take specific responsibility for the development of that committee's work plan and represent the service or function within and outside the authority as necessary to enable it to deliver its objectives consistently with corporate standards.

Comment [IM31]: Moved from Article 2.04.

Name of committee	Role and functions
Planning committee	<p>1. To determine the following categories of planning applications (including listed building consent, conservation area consent and advertising consent), where the development proposed involves the creation of 50 or more housing units or more than 3,500m² of commercial floor space or a mixed use development with more than 3,500m² of floor space, including applications for change of use, or the application is clearly linked to another application which is to be considered by the planning committee:</p> <p>(1) Those which are significantly contrary to the provisions of development plan document (including the unitary development plan) or other plans approved by the council for the purpose of development control, and which are recommended for approval;</p>

Comment [IM32]: Contents of tables in this article moved into Part 3 of the constitution. Roles and functions set out in revised Part 3.

Name of committee	Role and functions
<p>Planning committee (continued)</p>	<p>(2) Those which are controversial, i.e. subject to 3 or more relevant objections (a "relevant objection" is defined as any objection except an objection which clearly does not raise any material planning considerations) or raise a major issue of a planning nature except where they are straightforward refusals;</p> <p>(3) Those requested by a ward member to be determined by elected members, subject to the request being agreed by the chair of the committee;</p> <p>(4) All applications for the council's own developments except for the approval of reserved matters and minor developments to which no relevant objections have been made;</p> <p>(5) Those involving legal agreements, other than those in accordance with policy requirements, e.g. affordable housing, highway improvements, environmental work and other works required as part of a development proposal; and/or,</p> <p>(6) To set the principles for section 106 agreements on those applications before the committee.</p> <p>2. To consider the expenditure of funds over £100,000 secured through legal agreements under section 106 of the Town and Country Planning Act 1990, or any previous legislation.</p> <p>3. The designation of conservation areas including the adoption of conservation area character appraisals and detailed design guidance, and authorisations under article 4 of the Town and Country Planning Permitted Development Order 1995.</p> <p>4. To consider and determine all planning applications of strategic importance in the borough, including:</p> <ul style="list-style-type: none"> • applications which require referral to the Mayor of London; • applications which are required to be notified to the Secretary of State as departures from the development plan document (including the unitary development plan); • applications where the submission of an

Name of committee	Role and functions
<p>Planning committee (continued)</p>	<p>environmental impact assessment is required by regulation or following a screening application;</p> <ul style="list-style-type: none"> • applications for the development of metropolitan open land; • applications for the development of contaminated land; and/or, • specific applications not covered by the above but determined as strategic by the strategic director (regeneration and neighbourhoods). <p>5. To consider and determine all planning applications where the development will have a material impact on the area of one or more neighbouring community councils. The strategic director (regeneration and neighbourhoods) will determine, in consultation with the chairs of the relevant community councils, when such boundary proximity is a material factor.</p> <p>6. To consider any application reserved to community councils in the event that the relevant community council meeting was inquorate or the personal interests or decided views of a large number of members would be likely to render the meeting inquorate.</p> <p>7. To comment on the successive drafts of the development plan document (including the unitary development plan) and make recommendations to the executive, as appropriate.</p> <p>8. To comment on draft supplementary planning documents (including planning briefs) and make recommendations to the executive, as appropriate.</p> <p>9. To report to the executive on matters relating to the implementation of planning policy.</p> <p>10. To comment on consultation documents proposing significant changes to strategic planning policies (e.g. London Plan, Cross River Tram) and make recommendations on the council's response to the executive, as appropriate.</p>

Name of committee	Role and functions
<p>Licensing committee</p>	<p>1. To approve the council's policies in respect of all licensing and registration matters except the licensing</p>

Comment [IM33]: Contents of tables in this article moved into Part 3 of the constitution. Roles and functions set out in revised Part 3.

Name of committee	Role and functions
Licensing committee (continued)	<p>and gambling statements of policy.</p> <p>2. To consider the future process by which the decisions with respect to licensing applications are to be taken.</p> <p>3. To establish policies and procedures for considering and determining additional licensing functions conferred on the authority by statute.</p> <p>4. To consider and determine the following applications:</p> <ul style="list-style-type: none"> • the grant, renewal, variation or transfer of any general safety certificate in respect of a sports stadium or regulated stands; • street trading and markets; • film classification; and, • any other licensing responsibilities of the authority created by statute (and delegated to the committee). <p>5. Where appropriate to hear and consider the case for the applicant either by way of written or oral representation and consider objections and representations to the application from authorised persons and interested parties or their designated representatives.</p> <p>6. To consider and determine the revocation of licences and registrations reserved to the licensing committee.</p> <p>7. To consider the designation of new sites for street trading.</p> <p>8. To establish sub-committees under the relevant statutory provisions empowered to discharge any and all of the authority's licensing functions.</p>

Name of committee	Role and functions
Appointments committee	<p>1. To make recommendations to council assembly as to the appointment of the head of paid service.</p> <p>2. To appoint the monitoring officer.</p> <p>3. To appoint the finance director.</p> <p>4. To appoint to the posts designated in accordance with article 12.01(b) as chief officers.</p>

Comment [IM34]: Contents of tables in this article moved into Part 3 of the constitution. Roles and functions set out in revised Part 3.

Comment [IM35]: Contents of tables in this article moved into Part 3 of the constitution. Roles and functions set out in revised Part 3.

Name of committee	Role and functions
	<p>4. To develop and co-ordinate a life chances strategy and work plan to improve the life chances of Southwark looked after children.</p> <p>5. To recommend ways in which more integrated services can be developed across all council departments, schools and the voluntary sector to lead towards better outcomes for looked after children.</p> <p>6. To ensure that mechanisms are in place to enable looked after children and young people to play an integral role in service planning and design, and that their views are regularly sought and acted upon.</p>

Name of committee	Role and functions
Corporate parenting committee (continued)	<p>7. To ensure performance monitoring systems are in place, and regularly review performance data to ensure sustained performance improvements in outcomes for looked after children.</p> <p>8. To receive an annual report on the adoption and fostering services to monitor their effectiveness in providing safe and secure care for looked after children.</p> <p>9. To report to the council's executive on a twice yearly basis.</p> <p>10. To make recommendations to the relevant executive decision maker where responsibility for that particular function rests with the executive.</p> <p>11. To report to the scrutiny sub-committee with responsibility for children's services after each meeting.</p> <p>12. To appoint non-voting co-opted members.</p>

Comment [IM37]: Contents of tables in this article moved into Part 3 of the constitution. Roles and functions set out in revised Part 3.

The matters reserved for decision to the regulatory and other committees outlined above are set out in the responsibility for functions in part 3 of this constitution.

Comment [IM38]: Duplication.

8.02 Audit Committee

The council will establish an audit committee.

Comment [IM39]: Duplication – covered in Part 3A.

8.03 Composition

(a) The committee will consist of:

Comment [IM40]: This section to be included in committee procedure rules as a separate section on rules applying to the audit committee.

- ~~At least three councillors, and up to five councillors, including at least one member of each political group as defined by the Local Government and Housing Act 1989 Regulation 8 Local Government (Committees and Political Groups) Regulations 1990.~~
- (b) ~~No more than one member of the executive may be a member of the committee, and no executive member may chair the committee.~~
- (c) ~~No more than one member of the overview & scrutiny committee may be a member of the committee, and no overview & scrutiny committee member may chair the committee.~~
- (d) ~~The leader of the council may not be a member of the committee.~~
- (e) ~~The quorum for the meeting is two members.~~

8.04 **Statement of purpose**

The purpose of the audit committee is to provide:

- ~~Independent assurance of the adequacy of the council's governance arrangements, including the risk management framework and the associated control environment;~~
- ~~Independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment;~~
- ~~Oversight of the financial reporting process.~~

Comment [IM41]:
Section 9.04 has been incorporated into the roles and functions of the audit and governance committee. This is now set out in a revised Part 3 of the constitution.

8.05 **Role and functions**

The audit committee will have the following roles and functions:

Comment [IM42]: Contents of tables in this article moved into Part 3 of the constitution. Roles and functions set out in revised Part 3.

Name of committee	Role and functions
Audit committee	<p>Audit activity</p> <ol style="list-style-type: none"> 1. To consider the internal audit annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the council's corporate governance arrangements. 2. To consider reports dealing with the management and performance of the provider of internal audit services. 3. To consider reports from internal audit on agreed recommendations not implemented within a reasonable timescale.

Name of committee	Role and functions
Audit committee (continued)	4. To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
	5. To consider specific reports as agreed with the external auditor.
	6. To comment on the scope and depth of external audit work and to ensure it gives value for money.
	7. To liaise with the Audit Commission over the appointment of the council's external auditor.
	8. To commission work from internal and external audit.
	Regulatory framework
	9. To review any issue referred to it by the chief executive or a strategic director, or any council body.
	10. To monitor the effective development and operation of risk management in the council.
	11. To monitor the effective development and operation of corporate governance in the council and to agree actions necessary to ensure compliance with best practice.
	12. To monitor council policies on 'Whistleblowing', the 'Corporate anti fraud strategy' and the council's complaints processes.
	13. To oversee the production of and agree the council's statement on internal control.
	14. To review the council's compliance with its own and other published standards and controls.
	Accounts
	15. To review the annual statement of accounts and specifically to consider compliance with appropriate accounting policies and whether there are any concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
	16. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

~~8.06 Annual report~~

~~The audit committee will report annually to council assembly on its work and performance during the year.~~

Comment [IM43]: This section to be included Part 3.

~~8.07 Audit committee procedure rules~~

~~The council's general procedures as set out in Part 4 of the constitution (Rules committees and community councils procedure rules) apply to the audit committee.~~

Comment [IM44]: Duplication.

~~8.08 Attendance of officers~~

~~The committee may require other officers or agencies of the council to attend as required.~~

Comment [IM45]: To be included in an updated member and officer protocol.

Article 9 - Standards committee

9.01 ~~Standards committee~~

~~The council will establish a standards committee.~~

Comment [IM46]: Duplication – The establishment is noted elsewhere in constitution including the summary, article on committees and in Part 3.

9.02 ~~Composition~~

~~(a) The committee will consist of:~~

- ~~• At least four councillors, and up to seven councillors, including at least one member of each political group as defined by the Local Government and Housing Act 1989 Regulation 8 Local Government (Committees and Political Groups) Regulations 1990;~~
- ~~• Up to six independent members, appointed in accordance with the Relevant Authorities (Standards Committee) Regulations 2001; and,~~
- ~~• Reserve members for the councillor members of standards committee, shall be equal to the number of places each political group has on the committee;~~

Comment [IM47]: To be included in specific section on the rules applying to the standards committee contained within a revised committee procedure rules in Part 4 of the constitution.

~~(b) The political balance rules in section 15 of the Local Government and Housing Act 1989 do not apply to the standards committee.~~

~~(c) Independent members must make up at least 25% of the committee's total membership.~~

~~(d) Independent members may vote.~~

~~(e) With six independent members, the terms of office of each member will be for three years with each member retiring at the end of their term. Members shall serve a maximum of two terms.~~

~~(f) The chair of the standards committee will be elected from among the independent members at the first meeting of the committee in each municipal year.~~

~~(g) No more than one member of the executive may be a member of the committee, and no executive member may chair the committee.~~

~~(h) The leader may not be a member of the standards committee.~~

~~(i) The quorum for the meeting is three members, including at least one independent member.~~

- (j) ~~The committee is empowered to establish sub-committees to filter, review filter decisions and hear complaints of misconduct against councillors (including co-opted and independent members). The membership for each sub-committee will be drawn from the pool of independent members and councillors on the committee, including reserve members.~~
- (k) ~~Sub-committees shall be composed of three members including at least one independent member. Rules 9.02 (b) – (d) and (f) – (i) shall apply to sub-committee meetings.~~

9.03 ~~Role and functions~~

Comment [IM48]: Included in revised Part 3.

The standards committee will have the following roles and functions:

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 member and officer protocol and the communication protocol.~~
4. ~~To monitor the operation of the members' code of conduct, the member and officer protocol and the communication 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 complaints referred to it, 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 consider advice and reports from the Standards Board for England and to report to the Standards Board on the operation of the committee and its sub-committees.~~
9. ~~To receive reports from the monitoring officer on unlawful expenditure and probity issues.~~
10. ~~To receive reports from the statutory officers under the council's whistle blowing policy.~~

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- ~~11. To consider appointments to outside bodies (where such appointments are not a function of the executive).~~
- ~~12. To grant civic awards.~~
- ~~13. To establish sub-committees to consider complaints of misconduct against elected councillors, co-opted and independent members.~~
- ~~14. To consider the granting and supervision of exemptions of posts from political restrictions.~~

Article 10 – Community councils

10.01 ~~Community councils~~⁶

~~The council may appoint community councils (or "area committees") as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.~~

Comment [IM49]: Deleted. Clause not required since council assembly has already agreed to establish community councils.

10.02 **Composition and function**

(a) Composition of community councils

The council will appoint community councils (defined as "area committees" in legislation) as set out in the table below. Community councils do not need to be politically balanced. In addition community councils can only include members of the local authority who are members for the electoral wards wholly or partly contained within the area for which the committee has functions.

Name of community council	Members from electoral wards serving on community councils
Borough and Bankside	Cathedrals and Chaucer wards.
Bermondsey	Grange, Riverside and South Bermondsey wards
Rotherhithe	Livesey (north of the Old Kent Road), Rotherhithe and Surrey Docks wards.
Walworth	East Walworth, Faraday and Newington wards.
Peckham	Livesey (south of the Old Kent Road) and Peckham wards).
Camberwell	Brunswick Park, Camberwell Green and South Camberwell wards.
Nunhead and Peckham Rye	Nunhead, Peckham Rye and The Lane wards.
Dulwich	College, East Dulwich and Village wards.

Note on voting rights of Livesey ward members: In respect of Livesey ward members they shall serve as:

- voting members on Peckham community council;

⁶ ~~The council has decided to appoint eight community councils (defined as "area committees" in legislation) with executive and non-executive decision making powers.~~

- voting members on Rotherhithe community council in relation to planning functions only; and,
- non-voting members on Rotherhithe community council for all other matters.

(b) Role and functions of community councils

Comment [IM50]: In table points 1-4 moved into revised Part 3 to form a new section describing the roles and functions of community councils. Points 5-18 included in new matters reserved for decision or deleted where duplication existed in current Part 3H in constitution.

Role and functions	
Introduction	
1.	The purpose of community councils is to promote the involvement of local people in the democratic process and to bring decision making closer to local people.
2.	Community councils will be able to take decisions about local matters. At present the council has delegated in part the following key areas: planning, the cleaner, greener, safer programme, traffic management and appointment of local education authority governors to local nursery and primary schools.
3.	Community councils will act as a formal consultation mechanism on council wide policies and strategies.
4.	Community councils will be a focal point for discussion and consultation on matters that affect the area.
Planning functions (non-executive):	
5.	To determine those planning applications reserved to community councils.
6.	To provide comments on the following proposals to the planning committee: <ul style="list-style-type: none"> • expenditure of funds over £100,000 secured through legal agreements under section 106 of the Town and Country Planning Act 1990; • the designation of conservation areas; • adoption of planning briefs to guide the development of particular sites within the area of the community council; and, • all major and strategic schemes prior to consideration by the planning committee, subject to the consultation deadlines.
Environmental management (executive)	
7.	To consider regular reports on environmental management issues, including street cleaning, refuse collection, abandoned vehicles and leisure centres.
8.	To participate in contract reviews and be able to suggest service improvements and identify local priority issues.

Role and functions

9. ~~To recommend local and major contract variations, to the strategic director (environment and housing) and the executive respectively for consideration.~~

10. ~~To appoint ward members to serve on warden schemes steering groups.~~

Environmental improvement programme (executive)

Cleaner, greener, safer programme

11. ~~To approve the allocation of capital funds to local cleaner, greener, safer (CGS) schemes.~~

12. ~~To recommend bids for the capital funding of schemes of a strategic nature, as part of an open bidding process, to the executive.~~

13. ~~To oversee and take responsibility for the development and implementation of the local schemes.~~

14. ~~If successful in the bidding to the executive for strategic projects, to oversee and take responsibility for the development and implementation of the schemes.~~

Traffic management functions (executive)

15. ~~To make non-strategic local traffic decisions, for example to modify a local traffic scheme, to determine objections to traffic matters and to hear and determine traffic petitions and deputations.~~

16. ~~To be consulted on:~~

- ~~• strategic traffic management schemes;~~
- ~~• borough spending plans (BSP); and,~~
- ~~• decisions of strategic nature, such as whether to create parking zones or home zones.~~

Education functions (executive)

17. ~~To appoint to local education authority governorships on the governing bodies of nursery and primary schools within the area of the community council, from the list of suitable persons maintained by the council, except in the circumstances set out in paragraph 18 below.~~

18. ~~Where a school is eligible for intervention the strategic director of children's services or nominated officer (as set out in the departmental scheme of management) shall have the power to appoint local authority governors to the governing body, subject to consultation with the relevant executive member and the chair or vice chair of the relevant community council consistent with the statutory time constraints placed on the strategic director as well as the widest possible engagement with other councillors, especially the ward councillors for the ward in which the school is located.~~

(c) Delegations

The council assembly and the executive will include details of the delegations to community councils in part 3 of this constitution, including the functions delegated, showing which are the responsibility of the executive and which are not, budgets and any limitations on delegation.

10.03 Conflicts of interest – Membership of community councils and overview & scrutiny committees/sub-committees

Comment [IM51]:
Duplication – this section is covered in the code of conduct, which updates the information set out in this clause.

(a) Conflict of interest

If an overview & scrutiny committee/sub-committee is scrutinising specific decisions or proposals in relation to the business of the community council of which the councillor concerned is a member, then the councillor may not speak or vote at the overview & scrutiny committee/sub-committee meeting unless a dispensation to do so is given by the standards committee. The members' code of conduct allows a member to attend a meeting for the purpose of answering questions or otherwise giving evidence.

(b) General policy reviews

Where the overview & scrutiny committee/sub-committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

10.04 Community councils – Access to information

Comment [IM52]:
Duplication.

Community councils will comply with the access to information rules in part 4 of this constitution.

Comment [IM53]:
Duplication .

Agendas and notices for community councils meetings, which deal with both functions of the executive and functions that are not the responsibility of the executive, will state clearly whether an item relates to an executive or non-executive function.

Comment [IM54]: Delete from article. Specific rule to be included into revised community council procedure rules in Part 4.

10.05 Executive members on community councils

A member of the executive may serve on a community council if otherwise eligible to do so as a councillor.

10.06 Key tasks of chairs of community councils

Comment [IM55]: Moved from Article 2.04.

Chairs of community councils will take specific responsibility for the development of the community council's work plan, propose arrangements for the involvement of the community, and participate in consultation and decision making in the local area.

Article 11– Joint arrangements

The Local Government Act 2000 and regulations enable local authorities to make use of joint arrangements with other authorities and delegate to other local authorities.⁷

11.01 Arrangements to promote well being

The council, or the executive, in order to promote the economic, social or environmental well being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) cooperate with, or facilitate or coordinate the activities of, any person or body; and,
- (c) exercise on behalf of that person or body any functions of that person or body.

11.02 Joint arrangements

- (a) The council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions, which are not executive functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The executive may establish joint arrangements with one or more local authorities to exercise functions, which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) The executive may appoint only executive members to a joint committee under paragraph (b) above, and those members need not reflect the political composition of the local authority as a whole.
- (d) Details of any joint arrangements including any delegations to joint committees will be found in the council's scheme of delegations in part 3 of this constitution.

11.03 Access to information

- (a) The access to information procedure rules in part 4 of this constitution apply to joint arrangements.
- (b) If all the members of a joint committee are members of the executive in each of the participating authorities then its

⁷ A detailed schedule of arrangements with other authorities will be partly dependent on decisions taken by other councils.

access to information regime is the same as that applied to the executive.

- (c) If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in part VA of the Local Government Act 1972 will apply.

11.04 Delegation to and from other local authorities

- (a) The council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the council meeting.

11.05 Contracting out

The council, for functions which are not executive functions, and the executive, for executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994,⁸ or under contracting arrangements where the contractor acts as the council's agent under usual contracting principles, provided there is no delegation of the council's discretionary decision.

⁸ Government guidance suggests that councils may wish to make clear those functions to which this section currently or potentially applies.

Article 12 – Officers

12.01 Management structure

- (a) **General.** The council may engage such staff (referred to as officers), as it considers necessary to carry out its functions.
- (b) **Chief officers.** The council will engage, on the advice of the head of paid service, persons for the posts designated as chief officers for prescribed service portfolios. 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.
- (c) **Head of paid service, monitoring officer and chief finance officer.** The council assembly will designate the following posts as shown:

Post	Designation
Chief executive	Head of paid service
Strategic Director of legal and democratic services	Monitoring officer
Finance director	Chief finance officer

Comment [IM56]: Updated to reflect title of post.

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

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 coordinated, 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) **Legal proceedings.** The monitoring officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions

Comment [IM57]: Moved from Article 14 as this is a function of the monitoring officer.

of the council or in any case where he/she considers that such action is necessary to protect the council's interests.

- (b) **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.
- (c) **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 arrange for ~~conduct~~ investigations into matters referred by ~~the Standards Board for England 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.

Comment [IM58]: Updated to take account of the local filter.

Comment [IM59]: This is not a function that is specific to the monitoring officer. Covered in access to information procedure rules.

- (j) **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 finance director 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 will have responsibility for the administration of the financial affairs of the council.
- (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, maladministration, 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:
 - (i) ~~establishing and reviewing the strategic investments objectives.~~
 - (ii) ~~reviewing the definition of the investment return target most likely to satisfy this investment objective.~~
 - (iii) ~~considering what constraints, if any, should apply to the invested assets and monitor compliance.~~
 - (iv) ~~establishing and reviewing the strategic asset allocation (benchmark) that is likely to meet the investment return target.~~
 - (v) ~~considering and reviewing the appropriateness of the fund structure i.e. the delegation of powers to managers, setting boundaries for the manager’s discretion and~~

Comment [IM60]:
Transferred to revised Part 3 to be listed in matters delegated to panels.

- considering which manager return targets are likely to achieve the investment return target.
- (vi) ~~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.~~
- (vii) ~~considering policy matters in relation to the pension scheme and the council's early retirement policy.~~
- (viii) ~~considering applications, from other bodies, for membership of the council's pension scheme.~~
- (ix) ~~monitoring early retirements.~~
- (x) ~~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 these members will chair the panel;~~
- ~~• three officers (the finance director, an officer with specialist knowledge on the pensions scheme and the head of human resource or their equivalents);~~
- ~~• two independent advisers (non-voting); and,~~
- ~~• a 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.~~

Comment [IM61]:
Transferred to revised Part 3 to be listed in matters delegated to panels.

Comment [IM62]: Clause now covered by financial standing orders.

~~(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.~~

Comment [IM63]: Clause now covered by financial standing orders.

~~(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.~~

Comment [IM64]: Clause now covered by financial standing orders.

~~(k) **Fraud.** The finance director is responsible for management of the investigation process for all suspected cases of fraud, corruption, financial loss or malpractice.~~

Comment [IM65]: Clause now covered by financial standing orders.

~~(l) **Audit Management.** The finance director is responsible for management of the audit function, as set out in the financial standing orders.~~

Comment [IM66]: Clause now covered by financial standing orders.

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

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

~~12.06 **Conduct**~~

Comment [IM67]: Duplication.

~~Officers will comply with the officer code of conduct, when issued⁹ and the member and officer protocol set out in part 6 of this constitution.~~

~~12.07 **Employment**~~

Comment [IM68]: Duplication.

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

⁹ 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.

Article 13 – Decision making

13.01 Responsibility for decision making

The council will issue and keep up to date a record of which part of the council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in part 3 of this constitution.

Comment [IM69]:
Duplication. To be set out summary and introduction to Part 3.

13.02 Principles of decision making

All decisions of the council will be made in accordance with the following principles:⁴⁰

- (a) the link between strategy and implementation must be maintained;
- (b) decision making generally, whether by individual officers, individual executive members or the executive collectively, should have reference to the policy framework;
- (c) respect for human rights, law and probity;
- (d) due consultation and the taking of professional advice from officers;
- (e) proportionality (i.e. the action must be proportionate to the desired outcome);
- (f) a presumption in favour of openness; and
- (g) clarity of aims and desired outcomes.

Comment [IM70]: Clause moved to new Article 1.

13.03 Types of decision

(a) decisions reserved to council assembly.

decisions relating to the functions listed in article 4.02 will be made by the council assembly and not delegated.

Comment [IM71]:
Duplication – set out in Part 3.

(b) Key decisions.

(i) A "key decision" means an executive decision which is likely –

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or,
- (b) to be significant in terms of its effects on communities living or working in an area comprising one⁴¹ or more wards or electoral divisions in the area of the local authority.

Comment [IM72]:
Duplication – set out in protocol on key decisions.

⁴⁰ (a) to (b) local proposals; (c) to (g) statutory guidance; (c) law and probity added to modular constitution principle.

⁴¹ The statutory minimum is significant impact in two or more wards

~~A detailed definition of key decisions is contained in the appendix to the access to information procedure rules in part 4 of this constitution.~~

- ~~(ii) A decision taker may only make a key decision in accordance with the requirements of the executive procedure rules and access to information rules set out in part 4 of this constitution.~~

~~13.04 Decision making by the council assembly~~

~~Subject to article 13.08, the council assembly meeting will follow the council procedure rules set out in part 4 of this constitution when considering any matter.~~

Comment [IM73]:
Clauses 13.04-13.09 – To be covered in summary

~~13.05 Decision making by the executive~~

~~Subject to article 13.08, the executive will follow the executive procedure rules set out in part 4 of this constitution when considering any matter.~~

~~13.06 Decision making by overview & scrutiny committees and sub-committees~~

~~Overview & scrutiny committees/sub-committees will follow the overview & scrutiny procedure rules set out in part 4 of this constitution when considering any matter.~~

~~13.07 Decision making by other committees and sub-committees established by the council~~

~~Subject to article 13.08, other council committees and sub-committees will follow those parts of the committee and community council procedure rules set out in part 4 of this constitution as apply to them.~~

~~13.08 Decision making by council bodies acting as tribunals~~

~~The council, a councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in article 6 of the European Convention on Human Rights.~~

~~13.09 Decision making by community councils~~

~~Subject to article 13.08, community councils will follow the committee and community council procedure rules set out in part 4 of this constitution as apply to them.~~

Article 14 – Documents

Deleted: Finance, contracts and legal matters

14.01 ~~Financial management~~

Comment [IM74]: Duplication.

~~The management of the council's financial affairs will be conducted in accordance with the financial rules set out in part 4 of this constitution.~~

14.02 ~~Contracts~~

Comment [IM75]: Duplication.

~~Every contract made by the council will comply with the contracts standing orders set out in part 4 of this constitution.~~

14.03 ~~Legal proceedings~~

Comment [IM76]: Moved to Article 12.03 on the functions of the monitoring officer. Officers to consider if additional reference in Part 3 on officers is required.

~~The monitoring officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the council or in any case where he/she considers that such action is necessary to protect the council's interests.~~

14.04 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the council, it will be signed by the monitoring officer or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the council has given requisite authority to some other person.

Any contract, other than ones to which contract standing orders apply, with a value exceeding the current threshold for services/supplies under the EU public procurement directive entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing and must be either:¹²

Comment [IM77]: There is a need to clarify the application of this rule so it is consistent with the contract standing orders. Legal and finance officers have advised on the insertion of additional wording to achieve this.

- (a) signed by at least two officers of the authority; or,
- (b) made under the common seal of the council attested by at least one officer.

The EU contract thresholds in the footnote need updating as these have now gone down to £139,893 for supplies and services and £3,497,313 for works.

14.05 Common seal of the council

The common seal of the council will be kept in a safe place in the custody of the monitoring officer. A decision of the council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The common seal will be affixed to those documents which in the opinion of the monitoring officer should be sealed. The affixing of the common seal will be attested by the monitoring officer or some other person authorised by him/her.

¹² The current thresholds (net of VAT) under the EU public procurement directive effective from January 31 2006 to December 31 2007 are as follows:

- Supplies and Services - £144,371
- Works - £3,611,319

Article 15 – Review and revision of the constitution

15.01 ~~Duty to monitor and review the constitution~~

~~The standards committee will monitor and review the operation of the constitution to ensure that the aims and principles of the constitution are given full effect. This process will be informed by reports from the monitoring officer, as well as feedback from members, the public and other stakeholders.~~

Comment [IM78]: This clause is covered by role of monitoring officer in Article 12.03. Recommended for deletion.

15.02 ~~Protocol for monitoring and review of constitution by monitoring officer~~

~~A key role for the monitoring officer is to be aware of the strengths and weaknesses of the constitution adopted by the council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in article 1. In undertaking this task the monitoring officer may:~~

Comment [IM79]: This clause deals with process matters which are too detailed for the constitution. Recommending deletion.

- ~~(a) observe meetings of different parts of the member and officer structure;~~
- ~~(b) undertake an audit trail of a sample of decisions;~~
- ~~(c) record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and,~~
- ~~(d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.~~

15.03 ~~Changes to the constitution~~

- ~~(a) **Approval.** Subject to (c) and (d) below, changes to the constitution will only be approved by the council assembly after consideration of the proposal by the constitutional steering panel.~~
- ~~(b) **Change from a leader and cabinet form of executive to alternative arrangements, or vice versa.** The council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.~~
- ~~(c) **Changes to financial standing orders.** Changes to the financial standing orders may be made by the finance director in consultation with the head of paid service and the monitoring officer.~~
- ~~(d) **Changes to contract standing orders.** Changes to the contract standing orders may be made by the monitoring officer and after consultation with the finance director.~~

Comment [IM80]: This clause is moved to new Article 1 where the draft of an updated clause is set out.

Article 16 – Suspension, interpretation and publication of the constitution

16.01 Suspension of the constitution

(a) **Limit to suspension.** The articles of this constitution may not be suspended. The procedure rules listed in ~~rule 8 of~~ the council assembly procedure rules may be suspended by the council assembly ~~in accordance with this article and rule 8,~~ to the extent permitted within these rules and the law.

Comment [IM81]: This clause has been reworded so it is a more general clause on suspension thus avoiding any direct overlap with the council assembly procedure rules.

Comment [IM82]: Simplification.

Comment [IM83]: Simplification.

(b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the constitution set out in article 1.

Comment [IM84]: Duplication with council assembly procedure rule 8.

16.02 Interpretation

~~The ruling of the Mayor as to the construction or application of this constitution or as to any proceedings of the council assembly shall not be challenged at any meeting of the council assembly. Such interpretation will have regard to the purposes of this constitution contained in article 1.~~

Comment [IM85]: The role of the Mayor is covered in Article 5 and in council assembly procedure rules. Recommend deletion.

16.03 Publication

(a) The monitoring officer ~~make copies will give a printed copy~~ of this constitution available to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the council. Printed copies of the constitution are available to members on request.

Comment [IM86]: This clause has been amended to take account of constitutional steering panel's views on the future format of the constitution.

(b) ~~The monitoring officer will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.~~

Comment [IM87]: Recommendation from CSP.

Comment [IM88]: The constitution is available on the council's website.

(c) The monitoring officer will ensure that the summary of the constitution is made widely available within the area and is updated as necessary.

(d) The constitution will be published on the council's website.

Note: Renumber and update cross referencing.

PART 3: WHO TAKES DECISIONS?

~~RESPONSIBILITY FOR FUNCTIONS~~

Introduction

This section of the constitution sets out who can take what decision.

Each meeting of the council and decision makers are listed in this section. Each part provides details of:

- The roles and functions of the meeting or decision maker – this is a broad description of the areas of responsibility, sometimes known as the “terms of reference”.
- The matters reserved for decision – these can only be taken by the named meeting or decision maker.

Any area of responsibility that is not specifically listed under the matters reserved for a meeting or individual decision maker is deemed to be delegated to the senior officers in the relevant department (the most senior officers are the chief officers and the heads of service who report to them.

Any issue that is delegated can be taken by the parent body i.e. the body who originally delegated the decision. Although in practice any decision maker can refer a decision up to a parent body, all decision makers should endeavour to exercise the authority as delegated to it by council assembly unless exceptional circumstances apply.

PART 3A: COUNCIL ASSEMBLY

Roles and Functions

Council assembly is responsible for setting up the decision making structure of the council including its committees and the executive. It does this annually. Council assembly takes a number of decisions including agreeing the annual budget, setting the council tax, agreeing policy framework strategies and plans. It makes decisions on local legislation and bylaws. The meeting also appoints to outside bodies unless the appointment is an executive function or has been delegated by council assembly.

The council assembly will question the executive. The meeting will receive reports from the executive, overview & scrutiny committee and officers. It will also debate matters of local importance and consider members’ motions.

Matters Reserved for **Decision**

The following matters are reserved to the council assembly for decision:

Comment [IM1]: This section merges Article 4.02 and current matters reserved which overlapped. Duplication removed.

1. Electing the Mayor.
2. Adopting the local authority's code of conduct.
3. Electing the leader and the executive.¹
4. Establishing and deciding the composition of committees and community councils.
5. Agreeing and amending terms of reference for committees and community councils.

6. ~~Deciding the composition of committees and community councils.~~

Comment [IM2]: Duplication with other clauses. Renumber subsequent clauses.

7. Deciding the composition of committees and sub-committees.²

8. Agreeing the budget and determining the level of local taxation. The budget includes the allocation of financial resources to different services and projects, proposed contingency funds including reserves and balances, the council tax base, setting the council tax and decisions relating to the control of the council's borrowing requirement, the control of its treasury management strategy capital expenditure and the setting of virement limits.

Comment [IM3]: Updated.

9. Agreeing the constitution and any subsequent changes to it, subject to the provisions in Article 1.05 on changing the constitution.

Comment [IM4]: Amended to ensure consistency with new Article 1.

10. Agreeing the policy framework comprising the following plans and strategies:

- Corporate plan (including best value performance plan)
- Sustainable community strategy
- Crime and disorder reduction strategy
- Plans and strategies which comprise the development plan document (including the unitary development plan) Development plan documents (which form part of the development plan framework)
- Children and young persons plan
- Youth justice plan
- Neighbourhood renewal strategy
- Policy on the community councils
- Treasury Management Capital investment strategy (including prudential borrowing arrangements)
- Housing strategy

Comment [IM5]: Updated title.

Comment [IM6]: Updated title.

Comment [IM7]: • Crime and disorder reduction partnerships (CDRP) are no longer required to produce 3 year crime and disorder strategies. The new legislation requires each CDRP to develop a three year rolling plan and an annual strategic assessment.

Comment [IM8]: Updated wording to reflect development plan framework. These are high level policy strategies.

Comment [IM9]: Neighbourhood renewal fund no longer exists. Strategy not now required.

Comment [IM10]: Recommendation from constitutional steering panel that the housing strategy be the responsibility of the executive.

11. Agreeing the following policies:

- Licensing statement
- Gambling statement

¹ This provision is subject to article 7.04, which allows the leader discretion during the course of the year to appoint a replacement executive member, to change executive portfolios or following consultation with the monitoring officer to appoint an assistant to an executive member.

² ~~Standards committee may not have sub-committees.~~ Sub-committees of overview & scrutiny committee are appointed by the parent committee.

12. Agreeing any application to the Secretary of State in respect of any housing land transfer. Housing land transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.
13. Taking decisions in respect of functions which are the responsibility of the executive which are not in accordance with the policy framework or budget agreed by the council assembly.
14. Subject to the urgency procedure contained in the access to information procedure rules in part 4 of this constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
15. All local choice functions set out in part 3 of this constitution which the council assembly decides should be undertaken by itself rather than the executive;
16. Taking decisions in respect of functions which are not the responsibility of the executive and which have not been delegated by council assembly to committees, community councils, sub-committees or officers.
17. Making or confirming the appointment of the head of paid service.
18. Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills.
19. Determining the scheme and amounts of members' allowances.
20. Appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the council assembly.
21. Changing the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough.

22. The council assembly shall establish the following:

- ~~Appointments committee~~
- ~~Audit committee~~
- ~~Community councils~~
- ~~Corporate parenting committee~~
- ~~Disciplinary appeals committee~~
- ~~Licensing committee~~
- ~~Overview & scrutiny committee~~

Comment [IM11]: Included in Article on committees.

- ~~Planning committee~~
- ~~Standards committee~~

23. All other matters which, by law, must be reserved to council assembly.

PART 3B: EXECUTIVE ROLES AND FUNCTIONS TERMS OF REFERENCE

Proposals:

Proposals for this section

1. Add new clause on local community leadership;
2. To reorder existing clauses into following sections
 - Local Leadership
 - Policy
 - Financial Management and Resources
 - General
3. Aim to bring related clauses together in an expanded Financial Management and Resources section.

The executive ~~has~~ shall have responsibility for the following areas. The issues listed are the “executive functions” of the council:

Local Leadership Introduction

1. To provide community leadership in the borough.
2. To lead the community planning process and the search for best value, with input and advice from overview & scrutiny committees/sub-committees, community councils and any other bodies or persons as appropriate.
- ~~2. To draft the budget and policy framework for approval by council assembly.~~
3. To take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policy framework as agreed by council.
- ~~4. To oversee the authority's services.~~
4. To ensure consultation on the development of the council's policy framework, other key strategic documents and key decisions.
5. To be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
6. To oversee and take responsibility for effective joint work with partner agencies.

Comment [IM12]: New clause.

Comment [IM13]: Moved into section on Policy.

Comment [IM14]: Moved into General section.

Comment [IM15]: Existing clause 4 in General section.

Policy

7. To draft the budget and policy framework for approval by council assembly.
8. To have responsibility for drafting the sustainable community strategy and recommending it to council assembly.
9. To formulate the council's overall policy objectives and priorities, recommending them to council assembly for approval where appropriate.
10. To determine the council's strategy and programme in relation to the policy and budget framework set by the council.
11. To determine the authority's strategy and programme in relation to the social, environmental and economic needs of the area.
12. To exercise the council's functions in relation to community engagement and the local strategic partnership, including the formulation of council strategies for

Comment [IM16]: Existing clause 2 in Introduction.

communication, consultation, capacity building and active citizenship, and their coordination and implementation with particular reference to the provisions of relevant legislation.

13. To promote human rights, equality of opportunity and the interests and particular needs of all those who experience discrimination or disadvantage by virtue of their race, gender, disability, sexuality, or age.
14. To monitor the implementation and coordination of the statutory functions and obligations of the council with respect to equality of opportunity and non-discrimination, including its function as an employer.
15. To oversee and promote initiatives on best value across the council.
16. To set the strategic direction for the council's democratic renewal initiatives.
17. To consider and promote strategic and council wide initiatives to improve the quality, efficiency and effectiveness of the council's services to the public.

Financial Management and Resources

18. To have responsibility for the strategic management of the council's resources, financial, land, property and staffing, and to take decisions on such matters in the context of the budget and policy framework agreed by council.
19. To have responsibility for the council's revenue and capital budgets, including the housing revenue account, ensuring effective financial control and the achievement of value for money, within the provisions of financial standing orders.
20. To have responsibility for the operation of the council's risk management function.
21. To have responsibility for audit issues.
22. To have overall responsibility for acquisitions and disposal of any interest in land, buildings or the real and leasehold property of the council and to have responsibility for land and property used for operational purposes.

Comment [IM17]: Existing clauses 2 & 3 in General section.

Comment [IM18]: Existing clauses 15 and 16 in General section.

Comment [IM19]: Existing clause 5 in General section.

General

23. To oversee the authority's services.
- ~~1. To have responsibility for the strategic management of the council's resources, financial, land, property and staffing, and to take decisions on such matters in the context of the budget and policy framework agreed by council.~~
- ~~2. To have responsibility for the council's revenue and capital budgets, including the housing revenue account, ensuring effective financial control and the achievement of value for money, within the provisions of financial standing orders.~~
24. To have responsibility for all staffing and human resource matters including the number and type of staff, equalities issues and health and safety, subject to the authority's personnel policies and procedures except for staff appointments and dismissals.
25. To have responsibility for all equalities and diversity matters concerning both employment policy and practices and service delivery and the active promotion of the council's equalities policies.
- ~~26. To oversee and take responsibility for effective joint work with partner agencies.~~

Comment [IM20]: Existing clause 4 in Introduction.

Comment [IM21]: Moved into new section on Financial Management and Resources.

Comment [IM22]: Existing clause 7 in General section.

Comment [IM23]: Moved into Local Leadership section.

- 3. ~~To have overall responsibility for acquisitions and disposal of any interest in land, buildings or the real and leasehold property of the council and to have responsibility for land and property used for operational purposes.~~
- 27. To have responsibility for the council's role as corporate parent.
- 4. ~~To have responsibility for all equalities and diversity matters concerning both employment policy and practices and service delivery and the active promotion of the council's equalities policies.~~
- 28. To affiliate to and appoint representatives to outside bodies where such appointments are a function of the executive.
- 29. To delegate to appropriate committees of the executive and to chief officers and to receive regular information reports from them with particular reference to value for money; service implementation and development; client/customer service and performance; and the performance and achievement of equalities objectives.
- 30. To agree the reduction or cessation of any service.
- 31. To agree the authority's response to consultation papers.
- 32. To consult with scrutiny and take into account the final reports of scrutiny inquiries.
- 5. ~~To be responsible for all executive matters even if not expressly set out in this part of the constitution.~~
- 33. To consider whether the council should give evidence before a Royal Commission, government committee or similar body.
- 34. ~~To be responsible for all executive matters even if not expressly set out in this part of the constitution.~~
- 6. ~~To have responsibility for the operation of the council's risk management function.~~
- 7. ~~To have responsibility for audit issues.~~

Comment [IM24]: Moved into new section on Financial Management and Resources.

Comment [IM25]: Moved within this section.

Comment [IM26]: This clause has been moved so this is the last clause in this section.

Comment [IM27]: Existing clause 13 in General section.

Comment [IM28]: Existing clauses 15 and 16 in General section. Moved into new section on Financial Management and Resources.

Plans and strategies to be approved by the executive

- ~~Area based regeneration plans~~
- Asset management plan
- Local Area Agreement (LAA)
- ~~Departmental performance plans~~
- ~~European strategy~~
- Food law enforcement plan
- Green travel plan
- Health and social care strategy
- Plans and strategies which comprise the housing investment programme
- Medium term financial strategy (including the housing revenue account)
- ~~Post inspection action plan~~
- Quality protects management action plan
- Regeneration strategy
- Renewal areas strategies
- Road safety plan
- Schemes for financing schools
- Special education needs action plan
- Waste strategy
- Youth strategy
- Capital strategy and programme
- Housing strategy
- Statement of community involvement

Note: This list is not exhaustive.

Local choice functions and local act functions

See table of local act functions at Part 3N.

The executive makes decisions in the following circumstances:

1. Matters reserved to the executive are as set out in Part 3C;
2. Matters reserved to individual executive members are as set out in Part 3D, except where, in any particular case, the leader, deputy leader and/or the chief executive directs that the decision should be reserved to the executive; or the individual member refers the decision to the executive; and,
3. Matters reserved to executive committee(s) are as set out in 3E.

Comment [IM29]: This list is being updated. Officers are reviewing list and will provided updated list for annual meeting. A note has been added to indicate that this list should not be considered exhaustive, since it must be flexible enough to respond to organisational, legislative and governmental requirements.

Those plans indicated with a strike through are no longer required.

Comment [IM30]: Council assembly on April 2 2008 agreed that the local area agreement should be considered by the executive.

Comment [IM31]: Recommendation from constitutional steering panel that the housing strategy be the responsibility of the executive.

Comment [IM32]: Addition to this list.

EXECUTIVE PORTFOLIOS

Note for annual meeting: This section will be updated when the leader announces his executive and the delegation of portfolio responsibilities to executive members.

All executive members

All executive members will be publicly accountable for the actions of the council and provide community leadership for the borough. This will include specific responsibility for:

- Proactive community engagement of Southwark's diverse communities in order to promote the work of the council, to promote engagement in decisions and activities relating to the council and to improve council awareness and responsiveness to community needs and aspirations.
 - Promoting good communication of the work of the council, its plans and objectives in order to improve public understanding and support for the work of the council and its partners.
 - Representing the council with external bodies and agencies in order to promote the work of the council and the council's interests and to improve council influence with external bodies, particularly government.
 - The development of clear, ambitious and affordable policies and strategies for services which are consistent with the council's wider objectives, particularly the community strategy, and are consistent with the council's cross-cutting objectives.
 - Setting clear priorities and performance objectives, which are consistent with policy and strategic objectives, and ensuring these are properly communicated and performance managed.
 - Ensuring that resources are efficiently managed within allocations set by council and that risk is well managed.
 - Specific projects as agreed with the leader of the council.
 - All full-time executive members are expected to work an average of 38 hours per week on executive matters. Some of this work will naturally be in the evenings and at weekends and much of it will be undertaken out of the office.
 - Executive members will have 30 days of leave per year. They are expected to keep a record of their leave taken.
-

Individual portfolios

Leader of the council

To provide leadership of the council, by setting the strategic direction and key priorities, overseeing the development of the financial strategies, customer relationships policy, and representing the council in the community and in negotiations with regional and national organisations. In the absence of an executive member the leader will have responsibility for all relevant matters within the remit of the executive.

The leader will have particular responsibility for:

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- Performance management of executive functions
 - The customer service centre, including the final phase of transition, improved customer service and better integration with back office services
 - Opening new one stop shops
 - External communications and the reputation of the council
 - Strategic partnerships, the creation and development of a local area agreement, relationships with government and local authority associations
-

Deputy leader

To deputise in the leader's absence and to be lead member for the executive's relationship with scrutiny.

The deputy leader will also be responsible for the housing portfolio, including housing management, housing allocations, general management of the housing revenue account, the housing investment programme and leasehold management, and will have particular responsibility for:

- Housing strategy
 - Creating a step change improvement in housing customer care
 - Improving mechanisms for engaging with council tenants
 - Ensuring that the new repairs contract delivers better results
 - Ensuring that service charges for leaseholders are accurately estimated and billed
 - Explaining the cost of major works to leaseholders and ensuring that they receive value for money
 - Renewal and refurbishment of council housing, including maintenance and decant arrangements as part of major regeneration projects.
-

Resources

To ensure sound business planning and financial probity within the corporate framework, including the new medium term financial strategy and all financial management of revenue and capital, including the housing revenue account, the capital programme and the management of capital receipts.

The portfolio holder will have particular responsibility for:

- Provision of ICT, including letting a new contract
- The office accommodation strategy and management of the council's property portfolio, including all disposals and acquisitions
- Human resources, including realising benefits and savings through the new agency contract
- Strategic procurement
- Income management
- Efficiency, including Gershon efficiency targets
- Audit and risk management

Children's services and education

To assume the statutory role of lead member for children's services, including responsibility for children's social care, services for schools and pupils, early years and youth services, the inclusion agenda, and work to develop and implement the children and young people's plan. The portfolio holder will also be responsible for post-16 education and adult learning and will work closely with the executive member for health and social care with regard to children's health.

The portfolio holder will have particular responsibility for:

- The integration of the new children's service, including realising efficiencies
 - Ensuring that co-ordinated action is delivering improved outcomes, including improvements to attainment and achievement for all children and young people
 - The Southwark Schools for the Future programme
 - A strategy for expanding or rationalising primary provision where necessary
 - Opening up new children's centres and ensuring coherent and sufficient provision of quality, affordable childcare
 - Healthy, nutritionally balanced meals for school children
 - Taking forward the work of the race equality education forum
 - Safeguarding children, including ensuring that all staff understand their responsibility for child protection and that all relevant agencies share responsibility for safeguarding and promoting welfare
 - The corporate parenting role for children looked after by the council
 - Monitoring the expenditure of direct schools grant and level of balances
 - Ensuring fair, coordinated admissions arrangements to all schools of every type
-

Health and adult care

To improve the health of the borough and to safeguard the needs of vulnerable adults, including health promotion, the provision of personal social services, services to older people, services to people with disabilities, services to those with HIV/aids and/or those with drug and alcohol problems, services to those with mental health needs, "supporting people", homelessness and sheltered housing. The portfolio holder will work closely with the executive member for children's services (with regard to children's health) and the deputy leader (with regard to the housing needs of vulnerable adults).

The portfolio holder will have particular responsibility for:

- The public health agenda, including issues and actions arising from the Our Health, Our Care, Our Say White Paper
- Further integration of health and social care and trust status
- Influencing the development of new community health and social care services including those being developed in the new Dulwich Community Hospital

Regeneration

To facilitate the sustainable regeneration of Southwark's communities, promote investment, improve access to jobs in Southwark, and improve housing standards in Southwark. The portfolio holder will be required to work closely with the deputy leader to ensure a co-ordinated approach to housing issues, and with the executive member for communities on social inclusion.

The portfolio holder will have particular responsibility for:

- All major regeneration schemes, including Elephant & Castle, Aylesbury, Canada Water and Bermondsey Spa, including the social housing component of these schemes, in particular ensuring benefits for all Southwark's communities
 - Finalising the unitary development plan
 - Promoting fair pay, market development and fair trade
 - Lobbying for major improvements to public transport, including local train stations, and all issues relating to the proposed Cross River Tram and the extension to the East London Line
 - Housing renewal strategy
-

Environment

To continue working towards a cleaner and greener borough, including responsibility for waste management, street scene and highway infrastructure, traffic management and parking enforcement, parks and open spaces, and recycling.

The portfolio holder will have particular responsibility for:

- Maintaining the improvements in street cleaning
 - Increasing the rate of recycling
 - Introducing a comprehensive climate change policy
 - Ensuring sustainability across all council departments
 - Markets and street trading
-

Community safety

To deliver the Safer Southwark Partnership's strategic objective of a "Safer Southwark" and the management of council initiatives and services concerned with community safety and anti-social behaviour, enforcement policy, emergency planning and business continuity.

The portfolio holder will have particular responsibility for:

- Crime and drugs strategy
- Licensing
- Lobbying for more police officers and 24 hour police stations in all localities
- Improving the community warden service

- Southwark anti-social behaviour unit
 - Alcohol control zones
 - The noise team
 - Promoting links between elected members and safer neighbourhood teams
 - CCTV and other safety measures in public places
 - Public protection
 - Environmental health and trading standards
 - Youth offending team
-

Culture, leisure and sport

To promote and develop sport and culture in the borough, including leisure services and facilities, sports development, arts, museums and heritage, tourism, and libraries.

The portfolio holder will have particular responsibility for:

- The performance of Fusion Leisure Trust, including securing the necessary capital investment in the borough's leisure centres
 - Southwark Community Games and other events
 - Lobbying for an Olympic legacy for Southwark
-

Citizenship, equalities and communities

To improve the representation and engagement of all Southwark's diverse communities, including those hardest to reach, to promote equality of opportunity, eliminate unlawful discrimination and promote social cohesion. The portfolio holder will work closely with the executive member for regeneration on social inclusion, and with all executive members to promote equality of opportunity, celebrate diversity and improve community engagement across all portfolio areas.

The portfolio holder will have particular responsibility for:

- Relationships with the voluntary sector
- Further development of community councils
- Review of community engagement
- International development

PART 3C: MATTERS RESERVED TO THE FULL EXECUTIVE FOR COLLECTIVE DECISION MAKING

1. All ~~relevant~~ matters reserved to the executive by council assembly for decision.
2. Decisions on matters reserved to the executive in accordance with the provisions of contract standing orders in part 4 of the constitution.
3. Approval for recommendation to council assembly of those proposals and plans contained in the council's budget and policy framework.
4. Decisions regarding the strategic management of the council including decisions on major reorganisations and major reallocations of functions between departments or chief officers.
5. Approval to the creation of posts at grade 17³ and above.
6. ~~Approval to amend terms and conditions of service and employment contracts for individual groups of staff where these will vary from existing council wide procedures.~~ Approval of major terms and conditions of employment outside the national and provincial schemes.
7. Decisions regarding the strategic aspects of the regulation and control of the council's finances.
8. Approval of policy and procedures governing the council's relationship with the voluntary sector.
9. Approving write-offs of debt of a value of over £50,000.
10. Amendments to the council's equal opportunities policy.
11. Agreement to the disposal of leasehold and freehold interests in land and property where the market value is more than £500,000 excluding Right to Buy and Leasehold Reform Act cases.
12. All disposals at less than best consideration where the market value is more than £250,000 or where ministerial consent is required, unless the disposal is required by statute.
13. Acquisition of land and property, outside any scheme already agreed by members, where the market value is more than £100,000.
14. The acquisition of land and property which involves the use of compulsory purchase orders.
15. Approval of those projects to be designated as major projects, which will be the responsibility of the major projects board.

Comment [IM33]: Updated values in footnote.

Comment [IM34]: Updated wording.

Comment [IM35]: New Clause.

³ At April ~~2006~~ 2007, grade 17 equated to ~~£67,950 - £85,599~~ £69,633 - £87,717 per annum.

Social services issues

~~16. Appointment of rota visitors to establishments and representatives on the adoption panel and secure accommodation review panel.~~

~~17. Approval of long term or permanent closures and the cessation of services excluding changes in service delivery in individual cases.~~

Education issues

~~17. Approval of school admissions policies where the council is the admissions authority.~~

~~18. Approval of the co-ordinated admissions process for primary and secondary schools in Southwark.~~

~~18. Approval of schools admissions policies.~~

~~19. All school organisation final decisions on statutory proposals e.g. whether to close a school.~~

~~19. Decisions to go out to consultation prior to the publication of school reorganisation proposals~~

~~20. Decisions on school reorganisation proposals following the statutory consultation process.~~

Planning Issues

~~20. To adopt preferred options of development plan documents~~

~~21. To adopt supplementary planning documents taking account of comments from the planning committee.~~

Comment [IM36]: Social Services: There is no legal requirement for these decisions to be reserved to the executive. The appointment of representatives to the adoption panel and the secure accommodation review panel are taken annually by the executive along with other appointments. Recommended for deletion.

Comment [IM37]: Social Services: This clause predates 2002 executive arrangements. Definition of key decisions would now be applied. Recommended for deletion.

Comment [IM38]: Clauses 17 and 18 amended to reflect current school admissions position in Southwark.

Comment [IM39]: Clauses on statutory school organisation amended in line with legal advice on decision making so who takes statutory education decisions is clearer – see also Part 3D: IDM.

Comment [IM40]: New clauses to clarify who takes development framework decisions. .

NOTES

(a) All matters not reserved as above or to individuals or to executive committees (see 3D and 3E) are delegated to the appropriate chief officer and heads of service. All delegated matters can always be decided by the parent body. See also Part 3P: Matters delegated to officers.

(b) Executive committees have the power within the role and functions delegated to them to decide all matters reserved to executive.

PART 3D: MATTERS RESERVED TO INDIVIDUAL EXECUTIVE MEMBERS FOR DECISION

Introduction Preamble

There are occasions when matters affect more than one portfolio; on such occasions the decision will be referred to a meeting of the full executive.

In discharging any functions that have been delegated, an executive member must act lawfully. This means that the executive member must act within the scope of the authority that is delegated to him or her in accordance with any limits within the delegation, this constitution, council policies, procedure rules and the members' code of conduct.

Budget

1. Proposing revenue and capital budget allocations to the executive, in relation to their areas of responsibility.
2. Agreement of significant programmes in relation to these objectives.
3. Agreement of fees and charges, in relation to their areas of responsibility ~~and in line with financial standing orders~~, other than any set by council assembly as part of the budget process.
4. Approving the submission of bids for additional resources from government and other agencies, in relation to their areas of responsibility, where member level agreement is required by the external agency.
5. Matters reserved to individuals above specific financial thresholds:
 - Approving write offs of debt for their portfolio area of a value of £5,000 – £50,000.
 - Approving grants to voluntary organisations over £2,500.

Service planning and delivery

6. Agreement of statutory and other strategies, in relation to their areas of responsibility, except where they relate to crosscutting issues.
7. Agreement to significant policy issues, in relation to their areas of responsibility.
8. Agreement of performance standards and key policy objectives, in relation to their areas of responsibility.
9. Agreement to policy and performance priorities for the short and medium term in relation to their areas of responsibility and taking into account the needs of the council as a whole.
10. Agreement of service plans, in relation to their areas of responsibility.
11. ~~To consider best value review reports and:~~
 - ~~agree the action plan, including recommendations for no action, where there are no significant policy implications; and,~~
 - ~~make recommendations to the executive, including recommendations for no action, where there are significant policy implications.~~
12. To consider any inspection report by an external agency and:
 - agree the action plan, including recommendations for no action, where there are no significant policy implications; and,

Comment [IM41]:
As a result of new legislation, this clause is no longer required. Recommended for deletion.

- make recommendations to the executive, including recommendations for no action, where there are significant policy implications.

Tenders and contracts

13. Decisions on matters reserved to individual executive members in accordance with the provisions of contract standing orders in part 4 of the constitution.

Partnerships and consultation

14. To approve responses to consultation documents from government, Greater London Authority, Local Government Association, London Councils Association of London Government and other bodies relating to significant changes affecting their portfolio area, which would not require changes to the budget and policy framework.
15. Agreeing broad consultation arrangements, in relation to their areas of responsibility.
16. To promote effective partnerships, between the council and other agencies and bodies affecting the community, in relation to their areas of responsibility.
17. To deal with petitions in their portfolio area in accordance with council procedure.
18. To agree the following school organisation decisions:
 - Agreement to carry out the initial consultation where the council is proposing to make a statutory change to a school;
 - Following the outcome of the initial consultation process, to agree to publish the statutory notice.
19. To agree draft local development framework documents for consultation, such as supplementary planning documents.

Comment [IM42]: See previous comment on education decisions in Part 3C above.

PART 3E: ~~MATTERS RESERVED TO EXECUTIVE COMMITTEES~~

The leader will maintain a written record of any delegations to executive committees here.

~~Executive committees have the power within the role and functions delegated to them to decide all matters reserved to executive.~~

Comment [IM43]: Moved. See below under matters reserved.

MAJOR PROJECTS BOARD

Roles and Functions

The major projects board to:

1. Agree the delivery plans for each major project.
2. At regular intervals monitor the achievement of the delivery plan through performance management reports on each major project.
3. Receive annual reports as appropriate.
4. Agree exception reports when there is any significant delay or barrier to delivery of the agreed plan.
5. Establish project delivery boards ensuring arrangements for stakeholder consultation and involvement are in place.
6. Monitor the effectiveness and appropriateness of the project delivery boards and agreed to any necessary changes.
7. Hear deputations or receive reports from stakeholders relating to matters on the agenda for the meeting.
8. ~~Allocate and agree resources, use of resources for each major project, within the financial parameters for each project set by the executive. Within the financial parameters for each project set by the executive, to allocate and agree resources for each major project.~~
9. Confirm the executive member lead on each major project.
10. Sign off major projects when they are completed or no longer require significant executive input.
11. Resolve conflicts and dependencies between any major projects within the financial parameters for each project set by the executive.
12. Agree the scheme of management (delegations) to officers.
13. Agree policy decisions in respect of major projects that are required to deliver the major project.
14. Agree the programme plan for the projects board.

Comment [IM44]: Clarification.

Matters Reserved for Decision

Executive committees have the power within the role and functions delegated to them to decide all matters reserved to executive.

Nothing in the above shall ~~imply~~ **infer** authority for decisions that are set out elsewhere in the constitution.

Comment [IM45]: Clarification.

~~The major projects board will adopt the executive procedure rules, except Rule 2.3(b), Rule 2.6(iii) and Rule 2.11.~~

Comment [IM46]: Moved to executive procedure rules under new section on executive committees

~~The major projects board shall comprise the leader together with four other executive members of the council.~~

~~The leader shall appoint the vice chair. The quorum for a meeting of the major projects board shall be three.~~

NOTES

All matters not reserved to the executive, executive committees or to individual members are delegated to the appropriate chief officer and heads of service. All delegated matters can always be decided by the parent body. See also Part 3L: Matters delegated to officers.

~~The major projects board will adopt the executive procedure rules, except Rule 2.3(b), Rule 2.6(iii) and Rule 2.11.~~

Comment [IM47]: Moved to executive procedure rules under new section on executive committees

~~The major projects board shall comprise the leader together with four other executive members of the council:~~

- **The leader of the council**
- **Deputy leader and executive member for housing management**
- **Executive member of resources**
- **Executive member for regeneration**
- **Executive member of children's services.**

Comment [IM48]: Update following the annual meeting, if required. If the change to article 7 allowing the leader to vary the committee membership is agreed, this list would be updated by the monitoring officer.

~~The leader shall appoint the vice chair. The quorum for a meeting of the major projects board shall be three.~~

Comment [IM49]: Moved to executive procedure rules under new section on executive committees

PART 3F: MATTERS RESERVED TO PLANNING COMMITTEE

Roles and Functions:

1. To comment on local development framework documents in respect of all significant planning matters and make recommendations to the executive.
2. To consider the future process by which the decisions with respect to planning applications are to be taken
3. To consider and determine all the following applications:
 - Strategic and major planning applications (as defined in the matters served to the committee);
 - Designation of conservation areas including the adoption of conservation area character appraisals and detailed design guidance;
 - any other planning responsibilities of the authority created by statute (and delegated to the committee).
4. Where appropriate to hear and consider the case for the applicant either by way of written or oral representation and consider objections and representations to the application from authorised persons and interested parties or their designated representatives.
5. To consider expenditure of Section 106 monies.
6. To comment on national and regional consultation documents proposing significant changes to strategic planning policies and make recommendations to the executive.

Comment [IM50]: New wording. In the current constitution the matters reserved for planning committee are duplicated in the article.

Matters Reserved for Decision

1. Consideration of the following categories of planning applications (including listed building consent, conservation area consent and advertising consent), where the development proposed involves the creation of 50 or more housing units or more than 3,500m² of commercial floor space or a mixed use development with more than 3,500m² of floor space, including applications for change of use, or the application is clearly linked to another application which is to be considered by the planning committee:
 - (1) Those which are significantly contrary to the provisions of the local development framework development plan document (including the unitary development plan) or other plans approved by the council for the purpose of development control, and which are recommended for approval;
 - (2) Those which are controversial, i.e. subject to 3 or more relevant objections (a "relevant objection" is defined as any objection except an objection which clearly does not raise any material planning considerations) or raise a major issue of a planning nature except where they are straightforward refusals;
 - (3) Those requested by a ward member to be determined by elected members, subject to the request being agreed by the chair of the committee;

- (4) All applications for the council's own developments except for the approval of reserved matters and minor developments to which no relevant objections have been made;
- (5) Those involving legal agreements, other than those in accordance with policy requirements, e.g. affordable housing, highway improvements, environmental work and other works required as part of a development proposal.
2. To consider the expenditure of funds over £100,000 secured through legal agreements under section 106 of the Town and Country Planning Act 1990, or any previous legislation.
 3. The designation of conservation areas including the adoption of conservation area character appraisals and detailed design guidance, and authorisations under article 4 of the Town and Country Planning Permitted Development Order 1995.
 4. To consider and determine all planning applications of strategic importance in the borough, including:
 - Applications which require referral to the Mayor of London;
 - Applications which are required to be notified to the Secretary of State as departures from the development plan document (including the unitary development plan);
 - Applications where the submission of an environmental impact assessment is required by regulation or following a screening application;
 - Applications for the development of metropolitan open land;
 - Applications for the development of contaminated land; and,
 - Specific applications not covered by the above but determined as strategic by the strategic director (regeneration and neighbourhoods).
 5. To consider and determine all planning applications where the development will have a material impact on the area of one or more neighbouring community councils. The strategic director (regeneration and neighbourhoods) to determine, in consultation with the chairs of the relevant community councils, when such boundary proximity is a material factor.
 6. To consider any application reserved to community councils in the event that the relevant community council meeting was inquorate or the personal interests or decided views of a large number of members would be likely to render the meeting inquorate.
 7. To comment on the successive drafts of the local development framework development plan document (including the unitary development plan) and make recommendations to the executive, as appropriate.
 8. To comment on draft supplementary planning documents (~~including planning briefs~~) and make recommendations to the executive, as appropriate.

9. To report to the executive on matters relating to the implementation of planning policy.
10. To comment on national and regional consultation documents proposing significant changes to strategic planning policies (e.g. London Plan, Cross River Tram) and make recommendations on the council's response to the executive, as appropriate.

NOTES

- (a) All matters not reserved as above are delegated to the appropriate chief officer, head of service or business unit manager.
- (b) 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.

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

Roles and Functions:

1. To approve the council's policies in respect of all licensing and registration matters except the licensing and gambling statements of policy.
2. To consider the future process by which the decisions with respect to licensing applications are to be taken
3. To establish policies and procedures for considering and determining additional licensing functions conferred on the authority by statute.
4. To consider and determine the following applications:
 - the grant, renewal, variation or transfer of any general safety certificate in respect of a sports stadium or regulated stands;
 - street trading and markets;
 - film classification; and,
 - any other licensing responsibilities of the authority created by statute (and delegated to the committee).
5. Where appropriate to hear and consider the case for the applicant either by way of written or oral representation and consider objections and representations to the application from authorised persons and interested parties or their designated representatives.
6. To consider and determine the revocation of licences and registrations reserved to the licensing committee.
7. To consider the designation of new sites for street trading.
8. To establish sub-committees under the relevant statutory provisions empowered to discharge any and all of the authority's licensing functions.

Comment [IM51]: Wording transferred from Article 8 on committees.

Matters Reserved for Decision by the Licensing committee:

1. Approve the council's policies in respect of all licensing and registration matters, except the statement of licensing policy and the statement of gambling policy.⁴
2. To establish policies and procedures for considering and determining additional licensing functions conferred on the authority by statute.

Comment [IM52]: Updated title.

Matters Reserved for Decision by the Licensing committee and its sub-committees:

Comment [IM53]: Updated title.

⁴ The approval of the licensing and gambling statements of policy are matters reserved to council assembly.

Licensing Act 2003

1. Any application for a personal licence which is the subject of a police objection.
2. Any application for a personal licence by a person with unspent criminal convictions.
3. Any application for a premises licence or a club premises certificate which is the subject of a relevant representation.
4. Any application for a provisional statement which is the subject of a relevant representation.
5. Any application to vary a premises licence or club premises certificate which is the subject of a relevant representation.
6. Any application to vary a designated premises supervisor which is the subject of a police objection.
7. Any application for a transfer of a premises licence which is the subject of a police objection.
8. Any applications for interim authorities which are the subject of a police objection.
9. Any application to review a premises licence or club premises certificate.
10. Any decision to object when the local authority is a consultee and not the relevant authority considering the application.
11. Any determination of a police objection to a temporary event notice.

Gambling Act 2005

14. Any application for a premises licence where representations have been received and not withdrawn.
15. Any application for a variation to a licence where representations have been received and not withdrawn.
16. Any application for a transfer of a licence where representations have been received from the Gambling Commission.
17. Any application for a provisional statement where representations have been received and not withdrawn.
18. Any application to review a premises licence.
19. Any application for a club gaming/club machine permits where representations have been received and not withdrawn.
20. Cancellations of club gaming/club machine permits.
21. Decision to give a counter notice to a temporary use notice.

Other Functions

22. Any application for the grant, renewal, variation or transfer of any sex establishment licence.
23. New designations for sites for street trading.
24. Revocation of street trading licences.
25. To determine the revocation of any licence following successful prosecution of the holder for breach of licence terms, conditions and restriction.
26. Any application for consent to provide hypnotism or like entertainment.
27. Any application for the grant, renewal, variation or transfer of any general safety certificate in respect of a sports stadium or regulated stands.

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:

1. All films submitted for local classification under the Cinemas Act 1985.
2. Any opposed application for the grant, renewal or transfer of a special treatments licence.

NOTES

- (a) All matters not reserved as above are delegated to the appropriate chief officer, head of service or business unit manager. All matters reserved to the licensing officer panel can always be decided by the licensing committee or its sub-committees.
- (b) 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.

PART 3H: MATTERS RESERVED TO COMMUNITY COUNCILS

Roles and Functions

1. To promote the involvement of local people in the democratic process and to bring decision making closer to local people.
2. To take decisions about local matters. At present the council has delegated in part the following key areas: local planning applications, the cleaner, greener, safer capital programme, traffic management, and appointment of local education authority governors to local nursery and primary schools and community project banks.
3. To act as a formal consultation mechanism on council wide policies and strategies.
4. To be a focal point for discussion and consultation on matters that affects the area.

Comment [IM54]: Wording transferred from Article 10.02 on the role and functions of community councils.

Matters Reserved for Decision

Planning functions (non-executive)⁵

Decision making

1. Consideration of the following categories of planning applications (including listed building consent, conservation area consent and advertising consent), where the development proposed involves the creation of fewer than 50 housing units or less than 3,500m² of commercial floor space or a mixed use development with less than 3,500m² of floor space, including applications for change of use, except where the application is clearly linked to another application which is to be considered by the planning committee:
 - (1) Those which are significantly contrary to the provisions of the local development framework development plan document (including the unitary development plan or other plans approved by the council for the purpose of development control, and which are recommended for approval;
 - (2) Those which are controversial, i.e. subject to 3 or more relevant objections (a "relevant objection" is defined as any objection except an objection which clearly does not raise any material planning considerations) or raise a major issue of a planning nature except where they are straightforward refusals;⁶

⁵ The powers of the community council in respect of planning functions are formally delegated to it by the planning committee. For the purposes of decision making it is constituted as a sub-committee of the main committee. The planning committee will consider and determine all planning applications on or near community council boundaries, which will have a material impact on the area of one or more neighbouring community councils. The strategic director (regeneration and neighbourhoods) will determine when boundary proximity is a material factor.

⁶ To be determined by the strategic director (regeneration and neighbourhoods).

- (3) Those requested by a ward member to be determined by elected members, subject to the request being agreed by the chair of the community council;
- (4) All applications for the council's own developments except for the approval of:
 - Reserved matters and minor developments to which no relevant objections have been made; or,
 - Developments that are proposed by community councils.
- (5) Those involving legal agreements, other than those in accordance with policy requirements, e.g. affordable housing, highway improvements, environmental work and other works required as part of a development proposal.

Consultative/non decision making

2. To comment to planning committee on the proposed expenditure of funds over £100,000 secured through legal agreements under section 106 of the Town and Country Planning Act 1990, or any previous legislation where the site to which the agreement relates and the site(s) where expenditure will be incurred are in the same community council area.
3. To comment to planning committee on proposals for the designation of conservation areas including the adoption of conservation area character appraisals and detailed design guidance, and authorisations under article 4 of the Town and Country Planning Permitted Development Order 1995 affecting the area of the community council.
4. To comment to planning committee on proposals to adopt supplementary planning documents planning briefs for development control purposes to guide the development of particular sites within the area of the community council.
5. To be consulted on all major and strategic schemes prior to consideration by the planning committee, subject to the consultation deadlines.

Comment [IM55]:
Clarification.

Comment [IM56]:
Clarification.

Comment [IM57]:
Clarification.

Comment [IM58]: Updated.

Environmental management (executive)

Decision making

6. Recommendations to the strategic director (environment and housing), on local contract variations.⁷
7. Recommendations to the executive on issues concerning major changes to contracts.
8. Appointment of ward members to serve on warden schemes steering groups.

Consultative/non decision making

⁷ Decisions regarding contract variation shall remain the responsibility of the strategic director (environment and housing).

7. To consider regular reports on environmental management issues, including street cleaning, refuse collection, abandoned vehicles and leisure centres.

8. To participate in contract reviews and be able to suggest service improvements and identify local priority issues.

Comment [IM59]: This text is currently listed as Articles 10.02(b) 7 and 8. Recommended for inclusion in new section as not currently listed in matters reserved. This will ensure this new section is comprehensive.

Cleaner, Greener, Safer capital programme (executive)

Decision making

9. Approval of the allocation of funds to cleaner, greener, safer capital schemes of a local nature, using the resources identified by the executive, for example:

- Designing out dumping and fly-tipping;
- Local playground improvements;
- Local parks;
- Improvement to local sports facilities;
- Improvement to local community centres and youth facilities;
- Eyesores and facelifts;
- Improving ward-level communication routes and pathways; and,
- Bins, street furniture etc.

Comment [IM60]: Clarification that these schemes are capital in nature.

Comment [IM61]: Clarification that these schemes are capital in nature.

13. To oversee and take responsibility for the development and implementation of the local schemes.

14. If successful in the bidding to the executive for strategic projects, to oversee and take responsibility for the development and implementation of the schemes.

Comment [IM62]: This text is currently listed as Articles 10.02(b) 13 and 14. Recommended for inclusion in new section as not currently listed in matters reserved. This will ensure this new section is comprehensive.

Consultative/non decision making

10. Recommendation of bids to the executive for funding for capital schemes of a strategic nature as part of an open bidding process.

Comment [IM63]: Clarification that these schemes are capital in nature.

Traffic management functions (executive)⁸

Decision making

11. Determination of the following local non-strategic matters:

- The introduction of single traffic signs;
- The introduction of short lengths of waiting and loading restrictions;
- The introduction of road markings;
- The introduction of disabled parking bays; and,
- The setting of consultation boundaries, for consultation on traffic schemes.

12. Determination of objections to traffic management orders that do not relate to strategic or borough wide issues.

⁸ In respect of traffic matters that have a potential impact on more than one community council, the strategic director (environment and housing) shall determine if boundary proximity is a material issue.

13. To hear and determine traffic petitions and deputations that are of a non strategic nature.

Consultation/non-decision making

14. Following a strategic decision to introduce a parking or traffic safety scheme, community councils to be consulted on the detail of the schemes such as:
 - The method of consultation and how it is undertaken;
 - The type of traffic features to be introduced; and,
 - Where street furniture is positioned.
15. To be consulted on the borough spending plans (BSP), the council's annual bid to Transport for London for transport funding covering such things as local safety schemes and 20mph zones, before it is submitted to Transport for London.
16. To be consulted on decisions of strategic nature, such as whether to create parking zones or home zones.

Education functions (executive)

Decision making

17. Appointment of local education authority school governorships to the governing bodies of nursery and primary schools within the area of the community council, from among the list of suitable persons maintained by the council, except in the circumstances set out in paragraph 18 below.
18. Where a school is eligible for intervention the strategic director of children's services or nominated officer (as set out in the departmental scheme of management) shall have the power to appoint local authority governors to the governing body, subject to consultation with the relevant executive member and the chair or vice-chair of the relevant community council consistent with the statutory time constraints placed on the strategic director as well as the widest possible engagement with other councillors, especially the ward councillors for the ward in which the school is located.

Community Project Bank (executive)

Decision making

19. To approve projects for inclusion within the community project bank.

NOTES

- (a) All matters not reserved as above are delegated to the appropriate chief officer and head of service. All delegated matters can always be decided by the parent body. See also Part 3L: Matters delegated to officers.
- (b) All planning matters not reserved as above are delegated to the appropriate chief officer, head of service or business unit manager

- (c) 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.

PART 3I: APPOINTMENTS COMMITTEE

Role and Functions

1. To make recommendations to council assembly as to the appointment of the head of paid service.
2. To appoint the monitoring officer.
3. To appoint the finance director.
4. To appoint to the posts designated in accordance with article 12.01(b) as chief officers.

Comment [IM64]: Wording on roles and functions transferred from Article 8 on committees.

Comment [IM65]: Cross reference to be updated.

Matters Reserved for Decision

The matters reserved for decision are as set out in the roles and functions of the committee.

PART 3J: MATTERS RESERVED TO DISCIPLINARY APPEALS COMMITTEE

Comment [IM66]: Revised format in line with previous decision of CSP.

DISCIPLINARY APPEALS COMMITTEE**Roles and Functions**

Comment [IM67]: Duplication existed between the wording transferred from Article 8 on committees and the matters reserved. The text has been edited to remove information on the process and procedures, which is reported to each committee.

1. To review dismissal decisions of capability/disciplinary panels on the application of the dismissed employee. ~~The review shall consist of a consideration of:~~
 - ~~the letter setting out the charges;~~
 - ~~the minutes of the dismissal hearing;~~
 - ~~the letter setting out the decision of the panel;~~
 - ~~the contents of the appeal submission;~~
 - ~~the contents of the management response;~~
 - ~~any oral representation advanced by or on behalf of the appellant or management; and,~~
 - ~~the evidence of any witnesses called by the sub-committee.~~

~~In performing these duties, the committee shall, so as far as it appears to be appropriate, seek to avoid formality in its proceedings and shall not be bound by any enactment or rule of law relating to the admissibility of evidence in proceedings before a court of law.~~

~~The committee shall make such enquiries of persons appearing before it and witnesses as it considers appropriate and shall otherwise conduct the hearing in such a manner it considers most appropriate for the clarification of the issues before it and in the interest of natural justice.~~

2. To review the operational procedures of the hearing of appeals and report to the executive if any changes are considered necessary.
3. To constitute the disciplinary appeals panel (safeguarding children and vulnerable adults).

Matters Reserved for Decision

The matters reserved for decision to the committee are as set out in the roles and functions.

1. ~~To review dismissal decisions of capability/disciplinary panels on the application of the dismissed employee. The review shall consist of a consideration of:~~
 - ~~the letter setting out the charges;~~
 - ~~the minutes of the dismissal hearing;~~
 - ~~the letter setting out the decision of the panel;~~
 - ~~the contents of the appeal submission;~~
 - ~~the contents of the management response;~~
 - ~~any oral representation advanced by or on behalf of the appellant or management; and,~~
 - ~~the evidence of any witnesses called by the committee.~~

~~In performing these duties, the committee shall, so as far as it appears to be appropriate, seek to avoid formality in its proceedings and shall not be bound by any enactment or rule of law relating to the admissibility of evidence in proceedings before a court of law. The committee shall make such enquiries of persons appearing before it and witnesses as it considers appropriate and shall otherwise conduct the hearing in such a manner it considers most appropriate for the clarification of the issues before it and in the interest of natural justice.~~

~~2. To review the operational procedures of the hearing of appeals and report to the executive if any changes are considered necessary.~~

~~3. To constitute the disciplinary appeals panel (safeguarding children and vulnerable adults).~~

~~Note: The committee shall not consider appeals unless three members of the committee are present (three members forming the quorum).~~

DISCIPLINARY APPEALS PANEL (SAFEGUARDING CHILDREN & VULNERABLE ADULTS)

1. Roles and Functions of the disciplinary appeals panel (safeguarding children & vulnerable adults)

1.1 To review dismissal decisions of disciplinary/capability panels on the application of the dismissed employee. The appeals panel is the final internal stage of appeal.

The review shall consist of consideration of:

- ~~• the letter setting out the charges;~~
- ~~• the minutes of the dismissal hearing;~~
- ~~• the letter setting out the decision of the disciplinary panel;~~
- ~~• the contents of the appeals submission;~~
- ~~• the contents of the management response;~~
- ~~• any oral representation advanced by or on behalf of the appellant or management; and,~~
- ~~• the evidence of any witness called by the appeals panel.~~

1.2 Disciplinary or capability action will have been brought on the basis of abuse, neglect, incapability, or unprofessional conduct, where such actions relate to either:

- child(ren); or,
- vulnerable adult(s).

These actions may have occurred during working hours, or outside employment and led to disciplinary/capability action against the employee in his/her contractual duty of care to children or vulnerable adults.

2. Membership

~~2.1 The disciplinary appeals panel (safeguarding children & vulnerable adults) will constitute:~~

- a chair who is independent of the council service;
- experienced and trained members of the disciplinary appeals committee;
- a senior manager who has an understanding of the corporate parental responsibility and is independent of the department; and,
- a human resources specialist who has expertise in employment law, to act as an adviser only.

Decisions should aim to be reached by consensus. Where necessary, voting rights are restricted to the members, senior officer and the independent chair, who will hold the casting vote.

2.2 The disciplinary appeals panel (safeguarding children & vulnerable adults) will not proceed unless the following are present:

- an independent chair,
- three members minimum,
- a senior manager; and,
- a human resources specialist who has expertise in employment law.

2.3 The independent chair should be a recognised expert in the field of childcare or the care of vulnerable adults, with substantial management experience, including people management. Recommendations will be considered by reputable outside bodies, such as the SSI and Acas. The head of human resources, in consultation with the strategic director (health and community services) and the strategic director (children's services), will select and recommend the appointment of the independent chair(s) to the disciplinary appeals committee who will confirm appointment. Payment will be on a sessional basis.

2.4 There are eight member places:

- Liberal Democrat group nominations (four), plus three reserves.
- Labour group nominations (four), plus three reserves.

These would be drawn from membership of the disciplinary appeals committee. In addition they will receive specific training, organised by the council, on the care of children and vulnerable adults, the council's roles and responsibilities as a corporate parent, and related employment issues.

2.5 A pool of senior officers (chief officer or specific heads of service) will be selected to act as expert advisors on childcare or adult care issues. The strategic director (health and community services) and the strategic director (children's services) will select the advisors based on:

- current knowledge of care issues relating to children or vulnerable adults;
- an understanding of care practice from the client's perspective; and,
- independence from the area of review.

The strategic director (health and community services) will act as the advisor where the appeal falls outside the department.

2.6 The human resources specialist would normally be a senior member of the council's personnel team, but may be a legal officer with specialist knowledge of human resources where appropriate.

Matters Reserved for Decision

The matters reserved for decision are as set out in the roles and functions of the committee.

NOTE:

The membership of the disciplinary appeals panel (safeguarding children & vulnerable adults) will be comprised of:

- a chair who is independent of the council service. The independent chair should be a recognised expert in the field of childcare or the care of vulnerable adults, with substantial management experience, including people management.
- experienced and trained members of the disciplinary appeals committee;
- a senior manager who has an understanding of the corporate parental responsibility and is independent of the department; and,
- a human resources specialist who has expertise in employment law, to act as an adviser only.

PART 3K: ~~MATTERS RESERVED TO CORPORATE PARENTING COMMITTEE~~

Roles and Functions

1. To secure real and sustained improvements in the life chances of looked after children, and to work within an annual programme to that end.
2. To develop, monitor and review a corporate parenting strategy and work plan
3. To seek to ensure that the life chances of looked after children are maximised in terms of health educational attainment, and access to training and employment, to aid the transition to a secure and productive adulthood.
4. To develop and co-ordinate a life chances strategy and work plan to improve the life chances of Southwark looked after children.
5. To recommend ways in which more integrated services can be developed across all council departments, schools and the voluntary sector to lead towards better outcomes for looked after children.
6. To ensure that mechanisms are in place to enable looked after children and young people to play an integral role in service planning and design, and that their views are regularly sought and acted upon.
7. To ensure performance monitoring systems are in place, and regularly review performance data to ensure sustained performance improvements in outcomes for looked after children.
8. To receive an annual report on the adoption and fostering services to monitor their effectiveness in providing safe and secure care for looked after children.
9. To report to the council's executive on a twice yearly basis.
10. To make recommendations to the relevant executive decision maker where responsibility for that particular function rests with the executive.
11. To report to the scrutiny sub-committee with responsibility for children's services after each meeting.
12. To appoint non-voting co-opted members.

Comment [IM68]: Wording on roles and functions transferred from Article 8 on committees.

Matters Reserved for Decision

The role and function of the committee is to review and monitor the council's role as a corporate parent. This involves the participation of members on a cross political group committee. However any specific actions the committee # might identify as necessary would be executive functions and need to be taken in accordance with executive responsibility for functions. For this reason no specific matters have been reserved to this committee.

~~The role and functions of the committee are set out in full in article 8 of the constitution.~~

PART 3L: AUDIT AND GOVERNANCE COMMITTEE

Roles and Functions

Comment [IM69]: Wording on roles and functions transferred from Article 8 on committees.

Introduction

The purpose of the audit and governance committee is to provide:

1. Independent assurance of the adequacy of the council's governance arrangements, including the risk management framework and the associated control environment;
2. Independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment;
3. Oversight of the financial reporting process.

Audit Activity

4. To consider the internal audit annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the council's corporate governance arrangements.
5. To consider reports dealing with the management and performance of the provider of internal audit services.
6. To consider reports from internal audit on agreed recommendations not implemented within a reasonable timescale.
7. To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
8. To consider specific reports as agreed with the external auditor.
9. To comment on the scope and depth of external audit work and to ensure it gives value for money.
10. To liaise with the Audit Commission over the appointment of the council's external auditor.
11. To commission work from internal and external audit.

Regulatory Framework

12. To review any issue referred to it by the chief executive or a strategic director, or any council body.
13. To monitor the effective development and operation of risk management in the council.

- 14. To monitor the effective development and operation of corporate governance in the council and to agree actions necessary to ensure compliance with best practice.
- 15. To monitor council policies on 'Whistleblowing', the 'Corporate anti fraud strategy' and the council's complaints processes.
- 16. To oversee the production of and agree the council's statement on internal control.
- 17. To review the council's compliance with its own and other published standards and controls.

Accounts

- 18. To review the annual statement of accounts and specifically to consider compliance with appropriate accounting policies and whether there are any concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
- 19. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Annual Report

- 20. To report annually to council assembly on its work and performance during the year.

Comment [IM70]: This clause is currently set out Article 8.06. It has been inserted here to clarify the role of the audit and governance committee.

Matters Reserved for Decision

The matters reserved for decision to the committee are as set out in the roles and functions.

PART 3M: STANDARDS COMMITTEE

Roles and Functions

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 member and officer protocol and the communication protocol.
4. To monitor the operation of the members' code of conduct, the member and officer protocol and the communication 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 complaints referred to it, 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 consider advice and reports from the Standards Board for England and to report to the Standards Board on the operation of the committee and its sub-committees.
9. To receive reports from the monitoring officer on unlawful expenditure and probity issues.
10. To receive reports from the statutory officers under the council's whistle blowing policy.
11. To consider appointments to outside bodies (where such appointments are not a function of the executive).
12. To grant civic awards.
13. To establish sub-committees to consider complaints of misconduct against elected councillors, co-opted and independent members.
14. To consider the granting and supervision of exemptions of posts from political restrictions.

Comment [IM71]: Wording on roles and functions transferred from Article 9 on standards committees.

Matters Reserved for Decision

The matters reserved for decision to the committee are as set out in the roles and functions.

PART 3N: URGENCY COMMITTEE

Introduction

Council assembly will reconstitute the urgency committee to function during an interim period between a municipal election and council assembly.

Roles and functions

1. To exercise all the functions of the council, that are not reserved by law to council assembly for decision in cases where, in the opinion of the chief executive it is necessary to act urgently in order to secure the efficient and expeditious conduct of the council's business.

Note: It will be possible for one member of the urgency committee to refer any decision as a recommendation to a meeting of the council assembly.

Comment [IM72]: This wording is currently set out in council assembly procedure rule 9.

2. To consider planning and licensing applications and standards local filter issues, as set out in part 3 of the responsibility for functions, through sub-committees comprised of those councillors who have been re-elected and served on the relevant committees (or in the case of planning have undertaken the required training) prior to the municipal election.

Comment [IM73]: The arrangements used in the last full local elections have been included to formalise the position in the constitution. The arrangements provide for the consideration of applications and complaints where the time frames are limited by statutory limits or national performance guidelines. This clause will ensure the continuity of efficient and expeditious decision making during this period. The arrangement has been extended to standards sub-committees, which will consider complaints against councillors as part of the local filter, because of the need to comply with statutory time limits. Decision making on these committees is either quasi-judicial in the case of licensing or non-party political in the case of planning and standards.

Matters Reserved for Decision

The matters reserved for decision to the committee are as set out in the roles and functions.

NOTES:

Membership

Urgency Committee: The membership of the urgency committee will comprise of the leaders (or nominee) of the two largest political groups of the council (1 reserve member each – deputy leaders (or nominee)).

Licensing Sub-committee: The sub-committee will be comprised of those members of the licensing committee who served on the relevant committee in the year prior to the elections and are re-elected.

Planning Sub-committee: The sub-committee will be comprised of 3 Labour, 3 Liberal Democrat and 1 Conservative. It should be noted that only members who have received the necessary planning training are able to take part in the consideration of planning applications.

Comment [IM74]: The membership set out in this section are the arrangements used in 2006. An optional approach would be the same arrangement as for licensing: "The sub-committee will be comprised of those members of the planning committee who served on the relevant committee in the year prior to the elections and are re-elected." However this option is not recommended as it would limit the pool of councillors able to serve on the sub-committee.

Standards Sub-committee(s): The sub-committees will be comprised of those councillors of the standards committee who are re-elected, together with independent members.

PART 30: PANELS

Comment [IM75]: This is a new section. A number of panels which are located in different places in the constitution have been included here so they appear in one place.

Pensions Advisory PanelRole and Functions

Comment [IM76]: Currently in Article 12 on officers.

The finance director will ~~constitute a pensions advisory panel and~~ take into account the pension advisory panel's advice when performing the following functions:

- (i) establishing and reviewing the strategic investments objectives.
- (ii) reviewing the definition of the investment return target most likely to satisfy this investment objective.
- (iii) considering what constraints, if any, should apply to the invested assets and monitor compliance.
- (iv) establishing and reviewing the strategic asset allocation (benchmark) that is likely to meet the investment return target.
- (v) considering and reviewing the appropriateness of the fund structure i.e. the delegation of powers to managers, setting boundaries for the manager's discretion and considering which manager return targets are likely to achieve the investment return target.
- (vi) 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.
- (vii) considering policy matters in relation to the pension scheme and the council's early retirement policy.
- (viii) considering applications, from other bodies, for membership of the council's pension scheme.
- (ix) monitoring early retirements.
- (x) monitoring costs incurred in administering the pension scheme, including:
 - management and other direct costs.
 - transaction (dealing) costs.

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 resource or their equivalents);
 - two independent advisers (non-voting); and,
 - a 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.

Voluntary Bodies Appointments Panel

Role and Functions

1. To make recommendations on appointments to Southwark charities.
2. To maintain a list of prospective school governors for appointment.
3. To make recommendations on local education authority appointments to secondary and special school governing bodies.

Note: Any recommendations to be submitted to the relevant lead officer: strategic director of children’s services or monitoring officer.

Comment [IM77]: Currently in council assembly procedure rules. Under the order of business for the annual meeting.

Comment [IM78]: Clarification of scope of panel's role.

Constitutional Steering Panel

Role and Functions

1. To oversee, review and 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
3. To recommend changes to the members' allowances scheme.

Note: The membership to comprise the political group whips of each party represented on the council. All recommendations will be referred to the council assembly for consideration.

Comment [IM79]: Currently in council assembly procedure rules. Under the order of business for the annual meeting.

PART 3P: MATTERS DELEGATED TO OFFICERS

1. All matters not reserved to the council assembly, to the executive, or to a committee for decision, are delegated to the appropriate chief officer and/or head of service. The powers of the finance director include the requirement under the pension regulations to review investments made by the investment manager at least once every three months, and to administer all other functions relating to The London Borough of Southwark's pension fund in accordance with the relevant legislation and regulations.
2. 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.
3. It is the responsibility of and duty of chief officers to ensure that where appropriate matters of a controversial nature, or involving significant changes in policy, are consulted upon with the relevant executive member and recorded or reported to the executive, council assembly and committee as appropriate.
4. In respect of awarding grants of £2,500 and under, the decisions are delegated for officer decision following consultation by the chief officer/head of service, with the appropriate executive member. All such grants are to be circulated to members in advance and reported to the executive.
5. The monitoring officer will maintain a list of "proper officers".

Comment [IM80]:
Clarification.

PART 3Q: LOCAL ACT FUNCTIONS

Note: No change. Existing table remains.

PART 3R: LOCAL CHOICE FUNCTIONS

Note: No change. Existing table remains.

PART 3S: APPOINTMENTS TO OUTSIDE BODIES

Responsibility for appointments and revocation of appointments to outside bodies is a local choice function under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, regulation 3(1), schedule 2, and paragraph 19. Members may therefore decide that any of the following appointments should be made by council assembly, but statutory guidance is that the executive should make appointments to outside bodies in connection with functions which are the responsibility of the executive, and all other appointments should be made by the council assembly, a committee or officer.

Comment [IM81]: Revised format in line with previous decision of CSP.

Name	Purpose	No. of places to be filled	Who appoints
LGA General Assembly	To consider strategic policy of national significance to local government	4	Council assembly The Local Government Association (LGA) advises that votes can be allocated amongst the representatives as the local authority sees fit. LGA encourages local authorities with three or four representatives on the general assembly to allocate one of the positions to minority group leaders.
Age Concern London	To promote the welfare of the aged in any manner that may be deemed by law to be charitable within Greater London.	1	Executive (Health and adult care function)
Better Bankside Board	To oversee the implementation of the Better Bankside Business Improvement District	1 representative	Executive (Regeneration function) Councillor or officer.
Browning Estate Management Board	To oversee the management / running of Browning Estate with its own independent budget.	4	Executive (Housing function) <ul style="list-style-type: none"> • Two councillors • Two officer representatives

Name	Purpose	No. of places to be filled	Who appoints
Canada Water Consultative Forum	The forum is responsible for advising on the overall direction of development proposals and ensuring public awareness and involvement in the development proposals.	4	Executive (Regeneration function) Requirement of the forum's constitution
Central London Forward	Partnership with major business interests tackling central London issues across eight central London borough.	1	Executive (Regeneration function) Usually leader or executive member for regeneration
Centre for Language in Primary Education	Professional development and family learning centre. Provides a range of education support, advisory and direct delivery services to schools and families throughout Southwark.	1	Executive (Education function)
Chartered Institute of Library and Information Professionals (CILIP)	Professional body for librarian and information professionals. Promotes librarianship as a profession and offers training and development courses.	1	Executive (Leisure function)
Cross River Board	To deliver cross borough regeneration initiatives north and south of the River Thames in the London Boroughs of Southwark and Lambeth, the Corporation of London and the City of Westminster	1	Executive (Regeneration function) Usually the leader or executive member for regeneration.
Cross River Tram Board	To oversee implementation of the Cross River Tram	1	Executive (Regeneration function) Usually the leader or executive member for regeneration.

Name	Purpose	No. of places to be filled	Who appoints
Crystal Palace Community Development Trust	Trust set up to oversee the development of the Crystal Palace area.	1	Executive (Regeneration function)
Greater London Energy Efficiency Network (GLEEN)	Promotion of the benefits of energy efficiency through London in partnership with local authorities and other agencies.	1	Executive (Environment function) Does not have to be a councillor
Greater London Enterprise Limited	To assist, promote, encourage and secure the physical and economic development and regeneration of the whole or any part of Greater London.	1	Executive (Regeneration function) Does not have to be a councillor
Lambeth & Southwark Housing Association Limited	To provide affordable rented housing for local people on low incomes.	1	Executive (Housing function)

Name	Purpose	No. of places to be filled	Who appoints
Local Government Association (LGA) Urban Commission	<p>The purpose of the Commission is to:</p> <ul style="list-style-type: none"> • provide a forum in which urban authorities can discuss matters of common concern and exchange good practice and experience. • assist the LGA take into account the needs, priorities and aspirations of urban authorities in formulating and promoting its policies; • help the LGA to promote the role and interests of urban authorities and the ability of those authorities to meet the needs of the communities they serve. 	2	<p>Executive (Regeneration function)</p> <p>The council is entitled to five votes and may allocate them amongst councillor representatives as it sees fit. One representative may be an officer, however only councillor representatives may vote.</p>
London Accident Prevention Council (LAPC)	<p>To reduce the number of road accident casualties within Greater London and provide a means of communication relating to road accident prevention between London local authorities, central government and other organisations.</p>	2	<p>Executive (Community safety function)</p> <p>Does not have to be a councillor</p>

Name	Purpose	No. of places to be filled	Who appoints
<p>North Southwark Environment Trust</p>	<p>The preservation and conservation of the environment for the benefit of the public, including the promotion of energy efficiency and efficient methods of disposing of waste.</p> <p>The provision of facilities for education, recreation or other leisure time occupation, in the interests of improving the conditions of life of the inhabitants covered by the area of benefit.</p>	<p>1</p>	<p>Executive (Environment function)</p> <p>Does not have to be a councillor</p> <p>The area of benefit covered by the trust is 'north of the roads known as Camberwell New Road, Camberwell Church Street, Peckham Road, Peckham High Street and Queens Road.</p>
<p>South Bank Partnership</p>	<p>Engagement with South Bank employers groups, local MP's and community organisations in North Lambeth and Southwark (Bankside)</p>	<p>1 representative and local ward councillors (4 in total)</p>	<p>Executive (Regeneration function)</p> <p>Usually this has been the leader or executive member for regeneration plus local ward members.</p>
<p>South Bermondsey Partnership Board</p>	<p>This partnership has funding from government for seven years to improve South Bermondsey. The programme involves Southwark Council, the police and the primary care trust, along with other initiatives such as Surestart and the City of London Academy.</p>	<p>2 ward councillor representatives</p>	<p>Executive (Regeneration function)</p> <p>1 from Livesey Ward and 1 from South Bermondsey Ward</p>
<p>Southwark Alliance (Local Strategic Partnership)</p>	<p>Formally constituted partnership that brings together key agencies and individuals. The Southwark Alliance set the overall vision for the future of the borough and acts to promote change and build on the creativity within all sectors of the</p>	<p>3</p>	<p>Executive (Regeneration function)</p>

Name	Purpose	No. of places to be filled	Who appoints
	community.		
Southwark Cathedral Education Centre	The Education Centre exists to help teachers cover the curriculum for primary and secondary education in imaginative ways, while playing its part in the Cathedral's outreach and mission and presenting the Cathedral as a place of worship.	1	Executive (Education function)
Southwark Community Leisure Ltd. (Fusion) Management Board	Responsible for the management of the strategic development of health, fitness and leisure services within the borough in partnership with Southwark Council.	3	Executive (Leisure function) One from each political group. Does not have to be a councillor
South London Gallery Trustee Limited	To act as trustees and director of South London Gallery Trustee Ltd (the sole trustee of the South London Fine Art Gallery and Library Trust), which operates the South London Gallery as a public contemporary art gallery. Southwark Council is a major funder of the gallery but trustees must act solely in the best interests of the charity and are responsible for controlling the management and administration of the charity in line with the charities governing document.	3	Executive (Leisure function) The membership to be allocated by local agreement – 1 from each group
Southwark Groundwork Trust, Directors	The promotion of environmental issues within Southwark including allocation of funding for a number of environmental projects.	3	Executive (Environment function)
Southwark & Lambeth	The SLAEC is an advisory body established	1 representative	Executive (Leisure function)

Name	Purpose	No. of places to be filled	Who appoints
Archaeological Excavation committee (SLAEC)	to promote archaeological work in Southwark and to advance the knowledge of the history of Southwark and Lambeth by archaeological investigation.	and 1 deputy	
Sustainable Energy Action (SEA) Renewable Energy in the Urban Environment (RENUE)	To promote the sustainable use of energy in Southwark and across London. The body was established as Energy Agency for Southwark in 1998 and delivers a wide range of high profile projects in Southwark and London to combat climate change. www.sustainable-energy.co.uk	1	Executive (Environment function)
Appointments to other charities	The council has been given the power (by trusts, wills, and Charity Commission schemes) to appoint trustees for a number of local charities.	Variable	Council Assembly (Appointments panel to recommend) The Charity Commissioners advise that appointments to charities should be made on a non-political basis. When appointed, charity trustees do not represent the council, and must act solely in the best interests of the charity and must act independently of the council.

Comment [IM82]:
Clarification of role.

APPENDIX 4

Access to information procedure rules

Rules applying to all meetings of the council

Comment [IM1]: New heading to provide clarification.

1. APPLICATION OF RULES TO MEETINGS SCOPE

Comment [IM2]: New heading to provide clarification.

Rules 1–11 apply to all meetings of the council assembly, overview & scrutiny committees and sub-committees, the standards committee, regulatory committees, community councils and meetings of the executive, and its committees (together called “meetings”).

Deleted: Rules 12–19 apply only to the executive and its committees.

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this constitution or the law.

3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions in these rules.

4. NOTICES OF MEETING

Subject to the rules relating to urgent decisions, the council will give at least five clear **working** days notice of any meeting by posting details of the meeting at Southwark Town Hall and on the council website.

Comment [IM3]: Clarification.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear **working** days before the meeting.

Comment [IM4]: Clarification.

If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda.

6. SUPPLY OF COPIES

The council will supply copies of:

- (a) any agenda and reports which are open to public inspection;

- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and,
- (c) if the proper officer thinks fit, copies of any other documents supplied to councillors in connection with an item; to any person on payment of a charge for postage and any other costs.

Comment [IM5]: Formatting change.

7. ACCESS TO MINUTES ETC AFTER THE MEETING

The council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) the agenda for the meeting; and,
- (c) reports relating to items when the meeting was open to the public.

8. BACKGROUND PAPERS

8.1 List of background papers

The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and,
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in rule 10) and in respect of executive reports, the advice of a political assistant.

8.2 Public inspection of background papers

The council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents is kept at and available to the public at the council's main offices.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential information – Requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.2 Meaning of confidential information

Confidential information means information given to the council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court order.

10.3 Exempt information – Discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

10.4 Meaning of exempt information

Exempt information means information falling within the following categories (subject to any qualifications):

Exempt Information	
1.	Information relating to any individual.
2.	Information which is likely to reveal the identity of an individual.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6.	Information which reveals that the authority proposes:- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or, (b) to make an order or direction under any enactment.
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
7A.	Information which is subject to any obligation of confidentiality.
7B.	Information which relates in any way to matters concerning national security.

Exempt Information	
<p>7C. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.</p> <p style="text-align: center;">Qualifications</p> <p>8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:</p> <ul style="list-style-type: none"> (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or, (f) the Charities Act 1993. <p>9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>10. Information which:</p> <ul style="list-style-type: none"> (a) falls within any of paragraphs 1 to 7 above; and, (b) is not prevented from being exempt by virtue of paragraphs 8 or 9 above, <p>is exempt as long as the public interest in maintaining the exemption outweighs the public interest in disclosing it.</p>	

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the proper officer thinks fit, the council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

Rules applying to the executive

12. APPLICATION OF RULES TO THE EXECUTIVE

Comment [IM6]: New heading to provide clarification.
Formatted: Font: 14 pt, Bold, Underline

Rules 13 – 19 apply to the executive and its committees. If the executive or its committees meet to take a key decision then it must also comply with rules 1 – 11 unless rule 16 (general exception) or rule 17 (special urgency) or rule 18 (urgent implementation) apply. ~~A key decision is as defined in article 13.03 of this constitution and the appendix to these rules.~~

Deleted: 24

If the executive or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with rules 1 – 11 unless rule 16 (general exception) or rule 17 (special urgency) or rule 18 (urgent implementation) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members.

A key decision is as defined in the protocol on key decisions set out in the appendix to these rules.

Deleted: article 13.03 of this constitution and

Comment [IM7]: Formatting changed. Sentence currently set out in clause 12, paragraph 1 above.

13. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE

13.1 Reports intended to be taken into account

Where an individual member of the executive receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five clear working days after receipt of that report.

Comment [IM8]: Clarification.

13.2 Provision of copies of reports to overview & scrutiny committees

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chair of overview & scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.

13.3 Record of individual decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the executive or a key decision has been taken by an officer, he/she will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

14. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to rule 16 (general exception) and rule 17 (special urgency), a key decision may not be taken unless:

- (a) the matter is on the forward plan; or,
- (b) where the decision is to be taken at a meeting of the executive or its committees, notice of the meeting has been given in accordance with rule 4 (notice of meetings).

15. THE FORWARD PLAN

15.1 Period of forward plan

Forward plans will be prepared on behalf of the leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

15.2 Contents of forward plan

The forward plan will contain matters which the leader has reason to believe will be subject of a key decision to be taken by the executive, a committee of the executive, officers, community councils or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan.

It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and,
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 14 days before the start of the period covered. The proper officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the council;
- (b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the key decisions to be made for the four month period following its publication;

- (d) that each plan will be available for inspection at reasonable hours free of charge at the council's offices;
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and,
- (i) the dates on each month in the following year on which each forward plan will be published and available to the public at the council's offices.

Exempt information need not be included in a forward plan and confidential information cannot be included.

16. URGENT DECISIONS – DEFINITIONS OF URGENCY AND STEPS THAT MUST BE FOLLOWED

There are four categories of urgent decisions:

- Rule 17 (General exception)
- Rule 18 (Special urgency)
- Rule 19 (Urgent implementation)
- Rule 20 (Urgent decisions outside the budget or policy framework)

The definitions and procedures to be followed are set out below.

Comment [IM9]: New title to provide clarification.

Comment [IM10]: Extract inserted from current overview and scrutiny procedure rule 20.1. It is recommended for deletion in OSC rules. Officers are recommending that this section is made more comprehensive.

17. GENERAL EXCEPTION

Definition: These are decisions which are likely to be key decisions and have not been included in the forward plan for the month that the decision will be taken.

This decision will be subject to call-in.

Comment [IM11]: Clarification.

Comment [IM12]: Inserted text from OSC rule 20.1(1).

Procedure: If a matter which is likely to be a key decision has not been included in the forward plan, then subject to rules **17** and **18** (special urgency and / urgent implementation respectively), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the proper officer has informed the chair of the overview & scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;

- (c) the proper officer has made copies of that notice available to the public at the offices of the council; and,
- (d) at least five clear working days have elapsed since the proper officer complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

18. SPECIAL URGENCY / URGENT IMPLEMENTATION

Definition: These are decisions that need to be taken within five clear working days [i.e. the requirements of rule 16 (general exception) on notice cannot be complied with]. In these circumstances, the special urgency procedure should be used whether the decision had previously appeared on the forward plan or not.

This decision will be subject to call-in.

17.1 Special urgency Procedure: ~~If by virtue of the date by which a decision must be taken means that rule 16 (general exception) cannot be followed,~~ then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of the overview & scrutiny committee that the taking of the decision cannot be reasonably deferred.

If there is no chair of the overview & scrutiny committee, or if the chair of each relevant overview & scrutiny committee is unable to act, then the agreement of the Mayor of the council, or in his/her absence the Deputy Mayor will suffice.

19. URGENT IMPLEMENTATION

17.2 Urgent implementation

Definition: These are decisions which have either not previously been included on the forward plan, or have been included but need to be implemented immediately by virtue of the urgency of the actions that need to be taken.

This decision will not be subject to call-in.

Procedure: If a decision needs to be implemented immediately by virtue of the urgency of the actions that need to be taken, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of the overview & scrutiny committee both that the decision proposed is:

- (a) Reasonable in all circumstances; and,
- (b) It should be treated as a matter of urgency.

If there is no chair or if the chair is unable to act, then the agreement of the vice-chair or in his/her absence any two members of the overview & scrutiny committee will suffice. In the situation where both chair and vice-chair are

Comment [IM13]: Inserted text from OSC rule 20.1(1).

Comment [IM14]: Clarification.

Comment [IM15]: Clarification.

Comment [IM16]: New title to provide clarification.

Comment [IM17]: Inserted text from OSC rule 20.1(4).

Comment [IM18]: Inserted text from OSC rule 20.1(3).

Comment [IM19]: Reformatted to provide clarification.

unable to act the whips of the two largest political groups on the overview & scrutiny committee shall nominate one member each.

Note: Any requests for a key decision not to be called-in and communicated to the chair of overview & scrutiny committee should be copied to all overview & scrutiny committee members.

Comment [IM20]: Inserted text from OSC rule 20.1(3).

20. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK
(Rule 4, budget and policy framework procedure rules)

Definition: The executive, a committee of the executive, an individual member of the executive or officers, or joint arrangements discharging executive functions may take a decision which is contrary to the council's policy framework or contrary to or not wholly in accordance with the budget approved by council assembly if the decision is a matter of urgency.

Comment [IM21]: Inserted text from OSC rule 20.1(4).

This decision will not be subject to call-in.

Comment [IM22]: Inserted text from OSC rule 20.1(4).

Procedure: This type of decision may only be taken if the procedure set out in Rule 4, budget and policy framework procedure rules is followed.

18. REPORT TO COUNCIL

Comment [IM23]: Renumber subsequent paragraphs to the end of the document. Cross-referencing to be updated.

18.1 When an overview & scrutiny committee/sub-committee can require a report

If an overview & scrutiny committee/sub-committee thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or,
- (b) the subject of the general exception procedure; or,
- (c) the subject of an agreement with the overview & scrutiny committee chair, or the Mayor or Deputy Mayor of the council under rule **17 and 18**;

the committee/sub-committee may require the executive to submit a report to the council assembly within such reasonable time as the committee/sub-committee specifies. The power to require a report rests with the committee/sub-committee, but is also delegated to the proper officer, who shall require such a report on behalf of the committee/sub-committee when so requested by the chair or any five members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant overview & scrutiny committee/sub-committee.

18.2 Executive's report to council

The executive will prepare a report for submission to the next available meeting of the council assembly. However, if the next meeting of the council assembly is within seven days of receipt of the written notice, or the resolution of the committee/sub-committee, then the report may be submitted to the meeting after that. The report to council assembly will set out particulars of the decision, the body making the decision, and if the leader is of the opinion that it was not a key decision the reasons for that opinion.

18.3 Quarterly reports on special urgency decisions

In any event the leader will submit quarterly reports to the council assembly on the executive decisions taken in the circumstances set out in rule 17.1 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

19. RECORD OF DECISIONS

After any meeting of the executive or any of its committees, the proper officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

Rules applying to the overview & scrutiny

Comment [IM24]: New heading to provide clarification.

20. OVERVIEW & SCRUTINY COMMITTEE/SUB-COMMITTEES’ ACCESS TO DOCUMENTS

20.1 Rights to copies

Subject to rule 20.2 below, an overview & scrutiny committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the executive or its committees and which contains material relating to any business transacted at a meeting of the executive or its committees.

20.2 Limit on rights

An overview & scrutiny committee/sub-committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political assistant.

Rules applying to members

Comment [IM25]: New heading to provide clarification.

21 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

21.1 Material relating to previous business of the executive

All members, provided that they can demonstrate a “need to know”, will be entitled to inspect any document which contains any material relating to any business transacted at a meeting of the executive or its committees and is in the control of the executive unless:

- (a) it contains confidential or exempt information falling within paragraphs 1 to 3 (except where information is not exempt information by virtue of the

qualification in paragraph 8), 4, 5 and 7 of the categories of exempt information; or,

- (b) it contains the advice of a political assistant.

21.2 Material relating to key decisions

All members of the council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the executive or its committees which relates to any key decision unless paragraph (a) or (b) above applies.

21.3 Nature of rights

These rights of a member are additional to any other right he/she may have.

21.4 Freedom of information

Members can make a request under freedom of information and should state as such in their request.

21.5 General right to inspect documents containing exempt information

All councillors have an automatic right to inspect documents containing information made exempt under categories 3 and 6 of the access to information procedure rules, except in the case of paragraph 3 if the document contains information relating to any terms proposed or to be proposed by the council in the course of negotiations for a contract, it will remain exempt and councillors will have no automatic right to inspect the document.

Information made exempt under paragraphs 1, 2, 3 (where this relates to information on any terms proposed or to be proposed to or by the council in the course of negotiations), 4, 5 and 7 are only automatically available to councillors on the committee to which the document relates. Requests for copies of these reports from other councillors can only be complied with if a 'need to know' is demonstrated and the proper officer is of the opinion that the public interest in disclosing the information outweighs the public interest in withholding it.

PROTOCOL ON KEY DECISIONS

Definitions of key decisions

There are two types of key decision:

1. Those which are subject to a general financial threshold

Key decisions are those which result in the authority incurring expenditure or savings of £500,000 or more.

Examples include:

- disposal of any council property with a value of £500,000 or more;
- taking by the council of any interest in land with a value of £500,000 or more;
- the granting of any interest in land worth £500,000 or more;
- applications for funding from any external body which if successful would require match funding of £500,000 or more, or require revenue commitment of £500,000 or more; and,
- the award of a contract worth £500,000 or more in any one year.

2. Those which have a significant impact on communities

Key decisions are those which are likely to be significant in terms of their impact on communities and specifically in one ward or more.

Examples include:

- closure or significant changes to the provision of any council service, school or education facility; and,
- where there is evidence of significant local opposition to any proposals.

In considering whether a decision is likely to be significant, the decision maker is to consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the local amenity of the community or the quality of service provided to a significant number of people living or working in the locality affected.

In deciding whether a decision will have a significant impact on communities in one or more wards the following factors should be taken into account:

- the extent of the impact (i.e. how many people and wards will be affected);
- the likely views of those affected (i.e. is the decision likely to result in substantial public interest);
- whether the decision is likely to be a matter of political sensitivity;
- where the decision may incur a significant social, economic or environmental risk; and,
- where there is evidence of significant local opposition to any proposals

Where a decision is only likely to have a significant impact on a very small number of people in one ward, the decision maker should ensure those people are informed of the forthcoming decision in sufficient time to make an input into the decision making process. Ward councillors should also be informed of the decision to be taken. Officers should always be aware of the issues arising which might mean that a decision becomes a key one (for example, if input, even from a small number of those likely to be affected points to the decision being one which will have a much greater impact than was first apparent)

Decisions which should always be treated as key decisions

Comment [IM26]: New Title to provide clarification.

In addition there are other decisions, which are deemed to be although not deemed to be key decisions, because of their are still deemed to have significance and will be included in the forward plan. These are specifically include:

Comment [IM27]: Clarification.

- Setting of fees and charges;
- Granting or withdrawing financial support to any external community or voluntary organisation in excess of £10,000 (this would not apply to those organisations from which the council commissions services);
- Writing off any bad debt in excess of £50,000 per case;
- Disposal of any council property for less than best consideration;
- The exercise of the council's compulsory purchase order powers;
- Consideration of an inspection or reports by the ~~Best Value Inspectorate~~, Social Services Inspectorate, District Auditor, Office For Standards In Education (OfSTED) and the council's response to any such report; and,
- Strategic procurement strategy approval decisions (Gateway 1 reports)
- Corporate budget performance and monitoring.

Comment [IM28]: Clarification. These reports are currently listed on the forward plan but do not always fall within the current definition.

Guidance on determining if a decision is key or not

Where there is any doubt as to the financial value or the significance of the decision, that a decision should be treated as a key decision, it should be deemed to be treated as if it were a key decision and included in the forward plan.

Comment [IM29]: New Title to provide clarification.

Comment [IM30]: Clarification.

APPENDIX 5

Budget and policy framework procedure rules**1. The framework for executive decisions**

The council will be responsible for the adoption of the budget and policy framework as set out in Part 3A of this constitution ~~article 4~~.

Comment [IM1]:
Updated cross reference to provide clarification.

Once the framework is in place, it will be the responsibility of the executive to implement it within the resources approved by council.

2. Process for developing the framework

The process by which the budget and policy framework shall be developed is:

- (a) The executive will publish, by including in the forward plan, a timetable for making proposals to the council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those proposals. The consultation for the policy framework shall generally be around eight weeks. However, this timetable must take into account any statutory deadlines and allow sufficient time for those deadlines to be met (e.g. council tax setting). The chairs of overview & scrutiny committee and its sub-committees will also be notified. The overview & scrutiny committee and its sub-committees will determine whether it wishes to consult with community councils as part of its deliberations on the budget and policy framework.
- (b) At the end of the consultation, the executive will then draw up firm proposals having regard to the responses to that consultation. If a relevant overview & scrutiny committee/sub-committee wishes to respond to the executive in that consultation process then it may do so. As the overview & scrutiny committee and its sub-committees have responsibility for fixing their own work programmes, it is open to the scrutiny committee/sub-committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The overview & scrutiny committee and its sub-committees shall consider any responses received from community councils when considering its recommendations to the executive. The executive will take any response from an overview & scrutiny committee/sub-committee into account in drawing up firm proposals for submission to the council assembly and its report to council assembly will reflect the comments made by consultees and the executive's response.
- (c) Once the executive has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the council assembly for decision.

- (d) In reaching a decision council assembly may adopt the executive's proposals, amend them, refer them back to the executive for further consideration, or substitute its own proposals in their place.
- (e) If it accepts the recommendation of the executive without amendment, council assembly may make a decision, which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (f) The decision will be publicised ~~in accordance with article 4~~ and a copy shall be given to the leader.
- (g) An in-principle decision will automatically become effective seven days from the date of the council assembly's decision, unless the leader informs the proper officer in writing within five days of the date of the decision that he/she objects to the decision becoming effective. The written notification must state the reasons for the objection.
- (h) Where such notification is received, the proper officer shall convene a further meeting of the council assembly to reconsider its decision and the decision shall not be effective pending that meeting. The council assembly meeting must take place within seven working days of the receipt of the leader's written objection.
- (i) At that council assembly meeting, the decision of the council assembly shall be reconsidered in the light of the objection, which shall be available in writing for the council assembly.
- (j) The council assembly shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public and shall be implemented immediately. The council assembly may:
 - (i) confirm its original decision, or,
 - (ii) re-instate the executive recommendation as a decision, or,
 - (iii) substitute a different decision.
- (k) The decision of the council assembly at that meeting is final and may be implemented immediately. The leader may not ask for this or any other decision to the same effect to be reconsidered for a further six months.
- (l) In approving the budget and policy framework, the council assembly will decide whether any amendment to financial standing orders in respect of the extent of virement is necessary. Any other changes to the budget and policy framework are reserved to the council assembly.

Comment [IM2]:
Updated cross reference to provide clarification.

3. Decisions outside the budget or policy framework

- (a) Subject to the provisions of ~~on virements (as set out in the financial standing orders) paragraph 5 (virement)~~, the executive, committees of the executive, and any officers, or joint arrangements discharging executive functions may only take decisions which are within the budget

Comment [IM3]: Updated cross reference to provide clarification.

and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by the council assembly, then that decision may only be taken by the council assembly, subject to 4 below.

(b) If the executive, committees of the executive and any officers, or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the monitoring officer and/or the finance director as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the council assembly for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 shall apply.

(c) Council assembly may either:

(i) endorse a decision or proposal of the executive 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) amend the budget framework or policy concerned to encompass the decision or proposal of the executive 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,

(iii) where council assembly accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, refer the decision back and require the decision taker to reconsider the matter in accordance with the advice of either the monitoring officer and/or chief financial officer/finance director and refer it back to the decision maker. The decision taker must reconsider within seven working days of the council assembly meeting. The decision taken by whatever decision the decision maker takes at that meeting is final, bearing in mind that a decision taken outside the policy or budget framework will be unlawful.

Comment [IM4]: Updated.

Comment [IM5]: Clarification.

4. Urgent decisions outside the budget or policy framework

Comment [IM6]: Insert footnote with cross reference to the access to information procedure rules which lists this procedure as one of the urgent decision procedures.

Comment [IM7]: Consistency. This clause is proposed for deletion in OSC rules. This change inserts wording in the OSC rule.

(a) The executive, a committee of the executive or an individual member of the executive or officers, or joint arrangements discharging executive functions may take a decision which is contrary to the council's policy framework or contrary to or not wholly in accordance with the budget approved by council assembly if the decision is a matter of urgency. However, the decision may only be taken:

(i) if it is not practical to convene a quorate meeting of the council assembly; and,

- (ii) if the chair of the overview & scrutiny committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of council assembly and the chair of the overview & scrutiny committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chair of the overview & scrutiny committee the consent of the mayor, and in the absence of both the deputy mayor will be sufficient.

- (b) Following the decision, the decision taker will provide a full report to the next available council assembly meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

5. Virements

- (a) ~~Chief officers may vire budget provision between budget heads within their departments subject to limitations contained in financial standing order.~~
- (b) ~~The executive may at any time during the financial year and after considering a report of the chief executive vary departmental revenue budgets in accordance with financial standing orders.~~

Comment [IM8]: Duplication. Issue covered in financial standing orders.

The rules on virements are set out in full in financial standing orders.

6. In-year changes to policy framework

The responsibility for agreeing the budget and policy framework lies with the council assembly, and decisions by the executive, a committee of the executive, an individual member of the executive, or officers, or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy, which make up the policy framework, may be made by those bodies or individuals except where council has agreed this at the time of agreeing the budget or relevant policy or strategy or those:

Comment [IM9]: Clarification.

- (a) which will result in the closure or discontinuance of a service to meet a budgetary constraint; or,
- (b) which are necessary to ensure compliance with the law, ministerial direction or government guidance.

7. Call-in of decisions outside the budget and policy framework

The procedure for call-in of decisions which are not in accordance with the budget and policy procedure framework can be found in rules ~~18–20~~ 24 of the overview & scrutiny procedure rules.

Comment [IM10]: Updated cross reference.



COUNCIL ASSEMBLY PROCEDURE RULES

CONTENTS

Comment [IM1]:
This is a reordered version of the procedure rules. All numbering and cross referencing still to be finalised.

1. GENERAL PROCEDURES APPLYING TO COUNCIL ASSEMBLY MEETINGS

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- 1.4 Powers of the chair
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- 1.8 Declaration of interests
- 1.9 Previous decisions and motions
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- 1.11 Procedural Motions (without notice)
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- 4.4 Appointment of reserve/substitute members of committees and sub-committees
- 4.5 Proper officer shall make or terminate appointments if necessary
- 4.6 Continuing membership of the Mayor and Deputy Mayor in council election year
- 4.7 Voting rights of Mayor at annual meetings

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

~~6. EXCLUSION OF THE PUBLIC~~

6. **MEMBERS' CONDUCT**

7. **SUSPENSIONS AND AMENDMENT OF COUNCIL ASSEMBLY PROCEDURE RULES**

9. ~~INTERIM DECISION MAKING ARRANGEMENTS FOR THE PERIOD BETWEEN A MUNICIPAL ELECTION AND CONSTITUTIONAL COUNCIL~~

Comment [LJ2]: Moved to Part 3.

APPENDICES:

- 1. Protocol governing the discussion in council assembly on investigations and rulings of the Standards Board and associated bodies.
- 2. ~~Protocol on receipt of members' questions, motions and amendments.~~

Comment [IM3]: CSP recommendation to delete. This will be maintained by officers as a separate protocol outside of the constitution.

Information to members of the public:
 Members of the public may attend any meeting of the council assembly subject to the business being considered at the meeting not being exempt under the provisions set out in the access to information rules.

Suspension of council assembly rule
 The following will indicate when a certain rule may not be suspended:
 "This rule cannot be suspended." |

Comment [LJ4]: CSP recommendation.

1. GENERAL PROCEDURES APPLYING TO COUNCIL ASSEMBLY MEETINGS

~~1.1 NO SMOKING/ EATING AT MEETINGS~~

- ~~1. * No smoking shall be permitted at any council assembly meeting.~~
- ~~2. The consumption of food shall not be permitted within the council chamber.~~

1.1 NOTICE AND SUMMONS OF MEETINGS

This rule cannot be suspended.

1. The chief executive will give notice to the public of the time and place of any meeting in accordance with the access to information rules. At least seven clear working days before a meeting, the chief executive will send a summons signed by him or her by post to all members of the council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

Time and place

2. Unless the council, or the Mayor in consultation with the chief executive, shall otherwise decide, all meetings of the council shall commence at 7.00pm.
3. Unless the council, or the Mayor in consultation with the chief executive, shall otherwise decide, all meetings of the council assembly shall be held at the Town Hall, Peckham Road, SE5.

Meetings convened at short notice

4. Meetings of the council assembly may only be convened at less than seven clear working days' notice where by reason of special circumstances, which shall be specified in the summons, the meeting is required to be called at that time as a matter of urgency.

1.2 CHAIR OF MEETING

This rule cannot be suspended.

The person presiding at the meeting may exercise any power or duty of the Mayor.

1.3 QUORUM

This rule cannot be suspended.

1. No business shall be considered unless 16 councillors (or 25% of the membership) are present in the chamber or meeting room. If the chair considers the meeting to be inquorate, the meeting shall stand deferred for 15 minutes. If after 15 minutes' deferment there is still no quorum then the consideration of any business not transacted shall be held over to the next ordinary meeting of the council, unless the chair fixes an alternative date.

Quorum at start of meeting

- 2. The meeting of the council assembly shall commence as soon as there is a quorum, following the time at which the meeting has been appointed to be held.

Quorum if more than one-third of members are disqualified

Comment [IM5]: Clarification.

- 3. Where more than one-third of members of the council become disqualified at the same time, then, until the number of members in office is increased to not less than two-thirds of the whole number of members in office of the council, the quorum of the council assembly shall be determined by reference to the number of members of the council remaining qualified instead of by reference to the whole number of members of the council. The quorum shall then be one-quarter of the members of the council who remain qualified.

1.4 POWERS OF THE CHAIR

This rule cannot be suspended.

The chair shall decide, having taken the advice of the monitoring officer, all matters of order, competence, relevancy, interpretation of council procedure rules relating to the conduct of the meeting and the appropriateness of council questions.

1.5 VARIATION IN ORDER OF BUSINESS

Business falling under paragraphs 2.3(b), 3.2(a and c) will not be displaced but, otherwise, the order of business may be varied by:

Comment [IM6]: Check cross referencing.

- (a) the Mayor at her or his discretion; or,
- (b) a resolution passed on a motion which shall be put without debate.

However, should no decision be made as to the election of the Mayor at the annual meeting, this shall be the first item of business to be considered at any other subsequent meetings.

1.6 PREVENTION OF DISORDERLY CONDUCT

This rule cannot be suspended.

- 1. A councillor may be directed to discontinue speaking if the chair considers the councillor is being repetitive, irrelevant, uses unbecoming language, or is in some other way breaching the order of the meeting.

If a member persistently disregards the ruling of the chair by behaving improperly or offensively or deliberately obstructs business, the chair having warned the councillor shall move that the councillor called by name leaves the meeting. The motion, if seconded, shall be put immediately to the vote without further debate and if carried the councillor shall leave immediately.

- 2. In the case of a member of the public disrupting the meeting or if there is a general disturbance, the chair may order the removal of a person or that the public areas be cleared. Re-admission shall be at the discretion of the chair.
- 3. In the event of a general disturbance making orderly business impossible, the chair may adjourn the meeting for as long as he/she thinks necessary for order to be restored.

1.7 BROADCASTING AND RECORDING

Electronic recording, photographing or filming of the proceedings of a council meeting by any member of the public, media or councillor shall only take place with the prior agreement of the chair. The chair will make an announcement at the beginning of the meeting on any arrangement agreed.

Comment [LJ7]: CSP recommendation.

~~1.10 * VOTING RIGHTS AT ANNUAL MEETING~~

~~1. If, apart from paragraph 1.9 above, the person presiding at the annual meeting would have ceased to be a member of the council s/he shall not be entitled to vote in the election except in accordance with paragraph 2 below.~~

~~**Casting vote**~~

~~2. In the case of an equality of votes, the person presiding at the meeting shall give a casting vote in addition to any other vote s/he may have.~~

Comment [LJ8]: Moved to section 4.

1.8 DECLARATION OF INTERESTS

This rule cannot be suspended.

Councillors shall abide by the members' code of conduct. It is the responsibility of every councillor to declare an interest by the time the relevant item of business is reached.

1.9 PREVIOUS DECISIONS AND MOTIONS

Motion to rescind a previous decision

1. A motion or amendment to rescind a decision made at a meeting of council within the previous six months cannot be moved unless the notice of motion, delivered in accordance with rule 3.10(2), is signed by at least 16 members.

Motion similar to one previously rejected

2. A motion or amendment in similar terms to one that has been rejected at a meeting of council in the previous six months cannot be moved unless the notice of motion or amendment, delivered in accordance with rule 3.10(2), is signed by at least 16 members.

Notice

3. Notice of a motion to rescind or reject a previous motion shall be submitted four clear working days in advance of the meeting to the monitoring officer.

1.10 GUILLOTINE

Concluding the meeting

1. The guillotine shall take effect three hours after the start of the meeting.
2. A bell will be rung once the guillotine is reached and the member speaking must immediately sit down.
3. The following outstanding business shall be considered:
 - Any business required by statute

- Approval of minutes of council assembly
- Each individual report with a recommendation, be it from the executive, committee or officer
- Any other business accepted by the Mayor as late and urgent business.

**Process for dealing with any outstanding business
(Fifteen Minute Debate rule)**

4. Each item of business specified in clause 1.13(3) shall be afforded up to a maximum of 15 minutes. If the matter is not concluded within that time the Mayor shall, if appropriate, call upon the mover of the substantive motion to exercise their right of reply and a vote shall be taken. In circumstances where the council is legally obliged to make a decision, but the motion or recommendation voted upon is lost, the Mayor will take motions from the floor, each allocated up to a maximum of 15 minutes, until a decision is reached.

Motions not dealt with

5. If there are motions or other business still outstanding at the fall of the guillotine, then subject to clause 1.13(6) all other motions or business not considered shall be put to the vote without debate.

Suspension of guillotine rule
This rule cannot be suspended.

6. The guillotine rule can be suspended for up to a maximum of 30 minutes only.

1.11 PROCEDURAL MOTIONS WITHOUT NOTICE

The following procedural motions may be moved without notice:

- (a) to appoint a chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) amendment of a motion, by its mover, with the consent of the meeting (amendments must not negate the existing motion, nor introduce a new motion);
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;

Comment [IM9]:
Clarification.

Comment [IM10]:
Clarification.

- (m) to suspend a particular council assembly procedure rule;
- (n) to exclude the public and press in accordance with the access to information rules;
- (o) to exclude a member from the meeting under rule 1.7(1);
- (p) to give the consent of the council where its consent is required by this constitution;
- (q) motions extending the time limit of speeches;
- (r) motions under council assembly procedure rule 8(1) – suspension of council procedure rules without notice;
- (s) motions under council assembly procedure rule 3.7(13)(a) to receive a deputation;
- (t) motions and amendments on matters that have been addressed by a deputation received at council assembly and concerning which there is no report for recommendation on the agenda (council assembly procedure rule 3.7(20));
- (u) motions and amendments on matters upon which the council is legally obliged to make a decision, but for which a motion of which notice had been given has been lost; and,
- (v) to extend the guillotine by up to 30 minutes under rule 1.13(6).

1.12 RULES OF DEBATE

Chair to call member to speak

This rule cannot be suspended.

Comment [IM11]: New title to provide clarification.

1. A councillor may indicate their desire to speak by raising their hand, but shall only speak when called by name by the chair. When speaking the councillor shall stand, unless unable to do so. All other councillors shall remain seated in their allotted place when another councillor is speaking, unless wishing to make a point of order or point of personal explanation. If more than one councillor stands, the chair will ask one to speak and the others must sit down.

Chair Standing

This rule cannot be suspended.

Comment [IM12]: New title to provide clarification.

2. When the chair stands during a debate, any councillor speaking at the time must stop and sit down. The meeting must be silent.

Form of address

This rule cannot be suspended.

Comment [IM13]: New title to provide clarification.

3. Councillors shall address the chair when speaking, and:
 - (a) refer to each other as Mayor, Deputy Mayor, leader, executive member, chair or councillor, as the case may be;
 - (b) refrain from using unbecoming language;
 - (c) refrain from comments of a personal nature about another councillor;
 - (d) not attribute improper motives to another councillor; and,

- (e) refrain from comments that relate to an investigation (whether complete or not) 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.

Order of debate

- 4. No debate shall be allowed except in relation to a motion or amendment under consideration. Only one motion or amendment may be considered at a time. A motion or amendment once moved and seconded, may be withdrawn only by the mover and seconder, with the consent of the meeting. No further debate shall take place on a motion or amendment once it has been withdrawn.

Comment [IM14]: New title to provide clarification.

Mover and seconder required for all motions and amendments

- 5. Every motion or amendment must be moved and seconded. A councillor may not move more than one amendment or motion on the same subject.

Comment [IM15]: Duplication. Suggest combine with clause new 1.12 (19) and clarify withdrawal of motion before and after a motion has been moved,.

No speeches until motion is seconded

- 6. No speeches may be made until the mover has moved a proposal and explained the purpose of it and the motion has been seconded.

Comment [IM16]: New title to provide clarification.

Right to require motion in writing

- 7. Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to him/her before it is discussed.

Secunder's speech

- 8. When seconding a motion or amendment, the seconder may reserve their speech until later in the debate.

Content and length of speeches

- 9. Speeches must be directed to the matter under discussion or to a personal explanation or point of order. No speech by the mover of a motion may exceed five minutes without the consent of the Mayor. All other speeches may not exceed three minutes without the consent of the Mayor.

When a member may speak again

- 10. A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:
 - (a) to speak once on an amendment moved by another member;
 - (b) to move a further amendment if the motion has been amended since he/she last spoke;
 - (c) to speak on the main issue, if his/her first speech was on an amendment moved by another member (whether or not the amendment on which he/she spoke was carried);
 - (d) in exercise of a right of reply;
 - (e) on a point of order; and,
 - (f) by way of personal explanation.

Amendments to motions

11. An amendment to a motion must be delivered in accordance with rules 3.10(2) or 3.11(2), be relevant to the motion and will either be:
 - (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (b) to leave out words;
 - (c) to leave out words and insert or add others; or,
 - (d) to insert or add words.
12. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been completely dealt with.
13. If an amendment is not carried, other amendments to the original motion may be moved.
14. If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
15. After an amendment has been carried, the chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

Alteration of motion

16. A member may alter a motion of which he/she has given notice, with the consent of the meeting. The meeting's consent will be signified without discussion.
17. A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
18. Only alterations, which could be made as an amendment, may be made.

Withdrawal of motion

19. A member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

Right of reply

20. The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
21. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it. If an amendment is carried, the mover of the amendment shall hold the right to reply to any subsequent amendments and, if no further amendments are carried, at the conclusion of the debate on the substantive motion.
22. The mover of the amendment has no right of reply to the debate on his or her amendment.

Motions which may be moved during debate

23. When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the access to information rules; and,
- (h) to not hear further a member named under rule 1.7(1) or to exclude them from the meeting under rule 1.7(1).

Closure motions

- 24. The following closure motions may be moved during discussion of another motion (“the original motion”). They shall be moved, seconded and put without discussion. A second closure motion in relation to the same question shall not be moved within 30 minutes of the rejection of a previous motion.
- 25. If the motion is moved and seconded, then the person presiding shall proceed as follows:
 - (a) “That the meeting proceed to the next business”
 - (i) Moving the motion – Any member who has not already spoken on the question may, provided no other member is speaking, move (without speaking to the motion) that the meeting do now proceed to the next business and, if the motion is seconded, it shall be put to the vote without discussion.
 - (ii) Effect on question under consideration – If the motion is carried, the question which was under consideration shall be dropped and deemed not approved.
 - (b) “That the question be now put”
 - (i) Any member who has not already spoken upon the question before the meeting may, provided no other member is speaking, move (without speaking to the motion) that the question be now put. The motion, if seconded, shall be put to the vote without discussion.
 - (ii) Right to reply – If the motion is carried, no further speeches shall be permitted except in pursuance of a right to reply.
 - (iii) Vote – The vote shall then be taken immediately.
 - (c) “That the debate be now adjourned”

- (i) Motion to adjourn – Any member who has not already spoken upon the question before the meeting may, provided no other member is speaking, move that the debate is adjourned. That motion if seconded, shall be put to the vote without discussion.
- (ii) The adjourned debate – If a motion to adjourn the debate is carried, the discussion shall be resumed as adjourned business at the next ordinary meeting or such other day and hour as shall have been specified in the motion, and the meeting shall proceed to the next business on the agenda. Unless the adjourned business is taken at the next ordinary meeting, the only business, which shall be transacted at an adjourned meeting, shall be the uncompleted business set out in the summons for the meeting which was adjourned. On resumption of an adjourned debate, the member who moved its adjournment shall be entitled to speak first.
- (iii) Procedure in dealing with an adjournment motion – The mover of a motion under paragraph (i) above may speak for not more than five minutes but the seconder shall not be permitted to speak beyond formally seconding the motion. Upon such a motion for adjournment being made, the mover (or presenter) of the matter then under debate may (without prejudice to her or his ultimate right of reply if the adjournment motion is lost) speak on the adjournment for not more than five minutes after which the adjournment motion shall be put to the vote without further debate or reply by the mover.

(d) “That the meeting do now adjourn”

- (i) Motion to adjourn – Any member who has not already spoken upon the question before the meeting may, provided no other member is speaking, move that the meeting do now adjourn. The chair shall not be required to take a time and place adjournment until and after consultation with the political group whips, if he/she so deems necessary.
- (ii) Uncompleted business – If a motion to adjourn the meeting having been seconded is carried, the council assembly, shall stand adjourned to the next ordinary meeting or to such other day and hour as shall have been specified in the motion. Unless the adjourned business is taken at the next ordinary meeting, the only business which shall be transacted at an adjourned meeting shall be the uncompleted business set out in the summons for the meeting which was adjourned.
- (iii) Uncontentious business – Before putting to the meeting a motion for adjournment of the meeting, it shall be open to the Mayor/chair to ask whether it will first deal with uncontentious business.

- (iv) Procedure in dealing with an adjournment motion – The mover of a motion under paragraph (i) above may speak for not more than five minutes but the seconder shall not be permitted to speak beyond formally seconding the motion. Upon such a motion for adjournment being made, the mover (or presenter) of the matter then under debate may (without prejudice to her or his ultimate right of reply if the adjournment motion is lost) speak on the adjournment for not more than five minutes, after which the adjournment motion shall forthwith be put to the vote without further debate or reply by the mover.

Point of order

This rule cannot be suspended.

- 26. A member may raise a point of order at any time during the meeting. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of the council assembly procedure rules or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

Comment [LJ17]: CSP recommendation.

Personal explanation

This rule cannot be suspended.

- 27. A member may request to make a personal explanation at any time during the meeting. A personal explanation may only enable the member to refute or correct a statement attributed to him/her or any action he/she has taken.

Comment [LJ18]: CSP recommendation to provide clarification on the application of this rule.

The following procedure will apply:

- (a) The member wishing to intervene to make a personal explanation must signify to the person presiding by standing up and stating “personal explanation”.
- (b) The person presiding will ask the member speaking at that time whether they are willing to allow the member wishing to intervene to make a personal explanation.
- (c) The member speaking may either:
 - (i) agree to receive the personal explanation immediately; or,
 - (ii) delay the receipt of the personal explanation until later in her/his speech; or,
 - (iii) not agree to receive it.
- (d) If the request to receive the personal explanation is not agreed by the member currently speaking, the member requesting to make a personal explanation may not call for a further opportunity whilst that same member is speaking during the same speech, but will however be entitled to a point of personal explanation once the member has ceased speaking at the end of the speech if so desired.
- (e) If and when a personal explanation is heard, it must not be excessively long.

Comment [IM19]: CSP recommendation to provide clarification on the application of this rule.

1.13 VOTING

Majority

This rule cannot be suspended.

- 1. Unless this constitution provides otherwise or is required by statute, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put to the vote.

Mayor/chair’s casting vote

This rule cannot be suspended.

- 2. If there are equal numbers of votes for and against, the Mayor/chair will have a second or casting vote. There will be no restriction on how the Mayor/chair chooses to exercise a casting vote.

Show of hands

This rule cannot be suspended.

- 3. Unless a recorded vote is demanded under rule 1.17(4), the chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

Recorded vote by roll call

- 4. If 45% or more members present at the meeting request a division, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes in accordance with council procedure rule 1.18(4).

Comment [LJ20]: CSP recommendation to distinguish this clause from 1.13 (5) on individual recorded votes.

Right to require individual vote to be recorded

This rule cannot be suspended. This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993.

- 5. Where any member requests it immediately after the vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

Voting on appointments

This rule cannot be suspended.

- 6. If there are more than two people nominated for any position to be filled, the names will be put to the vote in alphabetical order and the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person..

1.14 RECORDED VOTE BY ROLL CALL

Requesting a recorded vote by roll call at council assembly meetings and number required

- 1. Any member may request a recorded vote by roll call on a motion or amendment being voted upon by standing in her or his place and so requesting before the casting of votes has started.
- 2. The specified number of members to request a recorded vote is 45% of those members present who are entitled to vote on the item.

3. If a request receives sufficient support in accordance with (2) above, a division shall be taken in accordance with the following procedure.

Procedure for recording the vote by roll call voting at council assembly meetings

4. The Mayor shall cause the ~~division~~ bell to be rung for one minute, after which the doors of the council chamber shall be closed and no members will be admitted until after the voting is completed. The Mayor shall put the question again. The monitoring officer shall call the names of all members in alphabetical order and each member present shall declare herself or himself 'for or against' the motion or amendment or that he/she abstains.
5. The votes, abstentions and absences from the council chamber shall be recorded in writing and entered in the minutes.
6. The Mayor shall declare the result of the recorded vote, stating the numbers 'for and against' the motion or amendment and the number of members who abstained.
7. Once a recorded vote has been called, no adjournment may be moved until the vote has been taken.

Motions where recorded votes by roll call are not permitted

8. A recorded vote may not be held in voting on the following motions:-
 - (a) election of the Mayor (council assembly procedure rule 2.3(b));
 - (b) the appointment of chairs and vice chairs (council assembly procedure rule 2.4(f));
 - (c) to vary the order of business (council assembly procedure rule 1.6));
 - (d) motions relating to the accuracy of the minutes (council assembly procedure rule 3.3(4));
 - (e) receipt of information reports of committees;
 - (f) that all recommendations then outstanding be approved (council assembly procedure rule 1.13);
 - (g) to proceed to the next business (council assembly procedure rule 1.16(25a));
 - (h) that the question be now put (council assembly procedure rule 1.16(25b));
 - (i) that the debate be adjourned (council assembly procedure rule 1.16(25c));
 - (j) that the meeting be adjourned (council assembly procedure rule 1.16(25d));
 - (k) seeking the consent of the council where it is required under council assembly procedure rules.

1.15 FORMAL RECORDS TO BE MAINTAINED

All meetings of the council assembly are to be clerked by a representative of the monitoring officer, with minutes to be produced including details of

members attending each meeting and details of decisions taken. Copies of all agendas and minutes are to be maintained by the monitoring officer.

1.15 RECORD OF ATTENDANCE

This rule cannot be suspended.

All members present during the whole or part of a meeting must sign their names on the attendance sheets and their time of departure if before the meeting ends, before the conclusion of every meeting to assist with the record of attendance.

2. ORDINARY MEETINGS OF THE COUNCIL ASSEMBLY

2.1 DATES AND FREQUENCY OF MEETINGS

~~Eight meetings of the council, including the Mayor-making, constitutional and council tax meetings, shall be scheduled to be held at the Town Hall, Peckham Road, London. Meetings shall take place on such dates as agreed by the annual constitutional meeting and occasionally as set out in rule 4.~~

Comment [IM21]:
Duplication. Clause updated.
Note: Check cross reference to rule 4.

2.2 ORDER OF BUSINESS AT ORDINARY COUNCIL MEETINGS

The business at an ordinary meeting shall be as follows, taken in the sequence indicated unless otherwise directed by the chair or agreed following a motion carried:

- (a) elect a person to preside if the Mayor is not present and the Deputy Mayor is not chosen to preside;
- (b) receive any announcements from the Mayor, members of the executive or the chief executive, including matters which the Mayor has decided to add to the agenda as urgent. Wherever possible, executive member statements should be in writing and circulated at the start of the meeting.
- (c) receive any declarations of interest from members;
- (d) approve the minutes of the last meeting;
- (e) receive petitions ;
- (f) receive questions from, and provide answers to, the public in relation to matters, which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (g) deputations;
- (h) urgent questions by group leaders;
- (i) questions from councillors to the leader, other executive members and chairs of committees/ community councils;
- (j) deal with any business from the last council meeting;
- (k) receive executive proposals in relation to the council's budget and policy framework and any other reports for decision (if any);
- (l) receive the report of the overview & scrutiny committee/sub-committee (if any);
- (m) receive reports from committees/officers of the council;

Comment [LJ22]:
Recommendation of CSP.

- (n) receive reports about and receive questions and answers on the business of joint arrangements and external organisations, including reports from members appointed to outside bodies. Once a year council assembly shall receive a report from the leader of the council on the work carried out by Southwark Alliance. Council will then also receive questions to the leader from members, relating to this report. Questions shall be treated as ‘questions on reports’. This shall take place at a council assembly meeting following the publication of the Southwark Alliance annual report. Where possible this should be the first scheduled meeting after the publication of the report;
- (o) consider motions;
- (p) open business which the chair has accepted as urgent; and,
- (q) any confidential business where the public are excluded from the meeting.

2.3 AGENDAS AND MINUTES

- 1. The monitoring officer shall ensure that an agenda and summons for the meeting is despatched to councillors and available to the public and press. ~~seven clear working days in advance of the meeting.~~
- 2. The monitoring officer shall ensure that a record is made of the decisions taken at every meeting of the council. The minutes shall also include a record of the councillors in attendance, those absent and any apologies received.
- 3. The declaration of any personal interest shall be recorded in the minutes of the meeting, including whether the councillor remained present or withdrew from the meeting for the duration of the discussion.

Comment [IM23]:
Duplication.

Signing the minutes

This rule cannot be suspended.

- 4. The Mayor/chair will sign the minutes of the proceedings at the next suitable meeting. The Mayor/chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

No requirement to sign minutes of previous meeting at extraordinary meeting

This rule cannot be suspended. This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993.

- 5. Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

2.4 PETITIONS TO COUNCIL ASSEMBLY

This rule cannot be suspended.

Which meetings consider petitions?

Comment [IM24]:
New title to provide clarification.

1. Members of the council will be entitled to present petitions to the Mayor at each council assembly meeting except the annual meeting or the council tax setting meeting.

Deadline

Comment [IM25]:
New title to provide clarification.

2. Members in receipt of petitions must inform the monitoring officer of their intention to lodge a petition at least one clear working day before the date of the meeting.

Scope

Comment [IM26]:
New title to provide clarification.

3. Petitions must relate to matters in which the council has powers or duties or which affects Southwark. Petitions shall not concern approval or otherwise of a **current** planning or licensing application.

Comment [IM27]:
Consistency.

Procedure at meeting

Comment [IM28]:
New title to provide clarification.

4. The Mayor will call on members to present petitions in the order in which they were notified to the monitoring officer.
5. The member presenting the petition may speak for up to three 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 monitoring officer 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.

2.5 PUBLIC QUESTION TIME

Which meetings consider public questions?

1. Public questions shall be considered at ordinary meetings of the councils. Public questions cannot be considered at the annual meeting or the council tax setting meeting.

Who may ask a public question?

2. The right to ask a public question only applies to persons resident in the borough or business ratepayers of the borough.

Scope of questions

3. The Mayor in consultation with the monitoring officer may reject a question if it:
 - is a request from an individual who has alternative means of expressing their views through recognised channels e.g. employees of the authority, trade unions representing staff employed by the authority etc;
 - is not about a matter for which the council has powers or duties or which affects Southwark;
 - 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; or,

- relates to an investigation (whether completed or not) 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.

Form of questions

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~~ has powers.
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.

Comment [IM29]:
Typographical change.

Deadlines

6. An application for a question to be considered shall be submitted in writing to the monitoring officer no later than nine clear working days in advance of the council assembly.¹
7. 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.

Agenda

8. 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.

Length of public question time

9. The time during which public questions shall be taken shall not exceed 15 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.

Asking the question at the meeting

10. 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.
11. 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.

Supplemental question

12. 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

¹ A protocol providing guidance on the means by which questions can be submitted is set out in appendix 2 to these procedure rules.

out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in rule 3.6(3) above.

Written answers

13. 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.

Reference of question to the executive or a committee

14. 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.

2.6 DEPUTATIONS TO COUNCIL ASSEMBLY

Which meetings consider deputations?

1. Deputation requests shall be considered at ordinary meetings of the council. Deputations shall not be taken at the annual meeting or the council tax setting meeting.

Who may request a deputation?

2. Deputations can only be made by a group of people resident or working in the borough.

Composition of deputation

3. The deputation shall consist of no more than six persons, including the spokesperson.

Scope of deputations

4. A deputation may only come to council assembly when it is not possible or appropriate for it to go to the relevant decision making body.

The Mayor in consultation with the monitoring officer may reject a deputation if it:

- is a request from a group of people who has alternative means of expressing their views through recognised channels e.g. employees of the authority, trade unions representing staff employed by the authority etc.
- is not about a matter for which the council has powers or duties or which affects Southwark;
- 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; or,
- relates to an investigation (whether completed or not) 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.

Form of the deputation

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.
6. Any written representations associated with a deputation should be submitted at the same time as the request for a deputation.

Deadlines

7. An application for a deputation to be heard shall be submitted by a representative of the deputation in writing to the monitoring officer 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.

Agenda

8. Deputations shall be dealt with in the order in which they are received.
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.
10. If the matter is not dealt with by the meeting, the matter shall be referred without debate to the relevant executive member who shall, after consideration, respond with an open reply to the sender.

Maximum number of deputations to be considered at council assembly

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 deputations to be reported will be determined on the basis of the order of the date and time received.
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.

What happens at council assembly meetings?

13. The monitoring officer shall report the request for the deputation to the council assembly. The meeting, without debate, shall decide:
 - (a) that the deputation be received at this meeting or a future meeting; or,
 - (b) that the deputation not be received; or,

- (c) that the deputation be referred to the most appropriate committee/sub committee/community council.

The monitoring officer 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.

Speech on behalf of deputation

- 14. Only one member of the deputation shall be allowed to address the council assembly, her or his speech being limited to five minutes.

Questions to the deputation and time limit

- 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 five minutes at the conclusion of the spokesperson's address.

No debate during deputation

- 16. Members shall not debate any issues arising out of the deputation, or the item to which it relates, with any members of the deputation.

Deputation to withdraw from the floor

- 17. As soon as questions to the deputation 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).

Debate, motion and amendments

- 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. 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 prior notice.

Debate on deputations concerning reports on the agenda

- 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 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.

Subject of deputation not on agenda

- 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 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.

Formal communication of council assembly's decision

- 21. The monitoring officer shall, in writing, formally communicate the decision of the council assembly to the person who submitted the request for the deputation to be received.

Deputations concerning licensing or planning applications

22. 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.

2.7 URGENT QUESTIONS BY GROUP LEADERS

Which meetings consider urgent questions?

1. Urgent questions shall be taken at all ordinary council assembly meetings but not at the annual, extraordinary or council tax setting meetings.

Comment [IM30]:
New title to provide clarification.

Who can ask urgent questions?

2. The leader of each group, or in his or her absence the deputy leader, may ask a **urgent** question of:

Comment [IM31]:
New title to provide clarification.

- The Mayor
- A member of the executive
- The chair of any committee, sub-committee or community council.

Comment [IM32]:
Clarification.

3. **Group leaders are limited to one urgent question at each meeting.**

Comment [IM33]:
Clarification –moved from old clause 6.

Scope

4. An urgent question may be asked on any matter in relation to which the council has powers or duties or which affects Southwark.

Comment [IM34]:
New title to provide clarification. Clauses renumbered.

5. An urgent question is one that deals with a matter that has arisen since the deadline for members' questions has elapsed and which cannot wait until the next council assembly.

6. ~~Group leaders are limited to one urgent question at each meeting.~~

Comment [IM35]:
Clarification –moved to new clause 2.7 £).

7. No question shall be asked on a matter relating to an investigation (whether completed or not) by, or ruling of, the Standards Board for England, the standards committee or the Adjudication panel, in so far as the question relates to the behaviour or conduct of an individual member or members.

8. No question shall be asked on a matter concerning a planning or licensing application.

Deadline for submission of questions

9. Urgent questions must be received by the monitoring officer no later than 10.00am on the morning of an ordinary council assembly meeting.²

10. Questions shall be addressed to the relevant executive member or committee chair who shall be responsible for the content of the answer. Executive members and committee chairs shall have discretion to refer a question to another executive member, if this is appropriate.

Circulation of written answers

²-A protocol providing guidance on the means by which questions can be submitted is set out in appendix 2 to these procedure rules.

11. Copies of all questions and their written answers, which may be subject to oral amendment, shall be circulated to all councillors at the beginning of the meeting. Copies shall also be made available to the press and public present at the meeting.

Comment [IM36]: Updated in line with current practice.

Supplementary question

12. A group leader asking a question may ask one supplementary question without notice to the member of whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

2.8 QUESTIONS BY MEMBERS

Which meetings consider questions by members?

Comment [IM37]: Clarification. New title.

1. Questions from members shall be considered at ordinary meetings of the council but not at the annual, extraordinary or the council tax setting meetings.

Who can ask questions?

Comment [IM38]: Clarification. New title.

2. A member of the council, may ask a question of:
- The Mayor;
 - A member of the executive; or,
 - The chair of any committee or sub-committee or community council;

3. Members are limited to one question at each meeting. Composite questions – where a member wishes to raise a number of points in relation to the same subject matter, s/he may do so in a multi-part question provided that up to three parts shall be deemed to be one.

Scope

Comment [IM39]: Clarification. New title.

4. A question may be asked on any matter in relation to which the council has powers or duties or which affects Southwark.

Comment [IM40]: Clarification.

5. No question shall be asked on a matter relating to an investigation (whether completed or not) by, or ruling of, the Standards Board for England, the standards committee or the Adjudication panel, in so far as the question relates to the behaviour or conduct of an individual member or members.

~~A question on any matter in relation to which the council has powers or duties or which affects Southwark.~~

Comment [IM41]: Clarification – moved so first clause in this section.

6. No question shall be asked on a matter concerning a planning or licensing application.

7. ~~Members are limited to one question at each meeting. Composite questions – where a member wishes to raise a number of points in relation to the same subject matter, s/he may do so in a multi-part question provided that up to three parts shall be deemed to be one~~

Comment [IM42]: Clarification. Moved to clause 2
Following clauses to be renumbered.

Time period for question time

6. ~~Councillors' questions shall be taken at all ordinary council assembly meetings but not at the annual, extraordinary or council tax setting meetings. The time during which councillor's questions may be taken shall be 30 minutes.~~

Comment [IM43]: Moved to clause 2.8(1) above.

7. Questions to any individual executive member or chair shall not exceed 15 minutes. It shall not be in order to move an extension of these time limits. Questions shall be taken in the following order: the leader, followed by other executive members (the order to be rotated by the monitoring officer at every meeting) and chairs of committees/sub-committees/community councils. At the expiry of members' question time, all questions not reached shall be deemed as noted. Executive members and committee chairs shall have discretion to refer a question to another executive member or committee chair if this is appropriate.

Comment [IM44]:
Consistency.

Deadline for submission of questions

8. Questions must be received by the monitoring officer no later than midnight, nine clear working days prior to the day of the council meeting.³ Questions to the leader will either be listed in the order received or, if notified, listed by whip prioritisation and rotation by the political groups/independent members (see council assembly procedure rule 3.9(10) and (11)). All other questions will be listed in the order of receipt. Questions shall be addressed to the relevant executive member or committee chair who shall be responsible for the content of the answer.

Circulation of written answers

9. Copies of all questions and their written answers, ~~which may be subject to oral amendment~~, shall be circulated to all councillors one hour prior to the commencement of the meeting. Copies shall also be made available to the press and public present at the commencement of the meeting.

Comment [IM45]: Updated in line with current practice.

Scope

~~No question shall be asked on a matter relating to an investigation (whether completed or not) by, or ruling of, the Standards Board for England, the standards committee or the Adjudication panel, in so far as the question relates to the behaviour or conduct of an individual member or members.~~

Comment [IM46]: Moved to new clause on scope above.

Supplementary question

10. A member asking a question may ask one supplementary question without notice to the member of whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

Prioritisation and rotation by the political groups / independent members

13. Questions to the leader will either be listed in the order received or listed in the order of whip prioritisation and rotation by the political groups. Four working days before the meeting, each chief whip may list questions from members of their respective groups in an order of priority to be taken at the meeting. All remaining questions will be taken in the order of receipt.
14. Questions to the leader will be rotated so that one is taken from each political group's list of priorities (and any independent councillors) for so long as there are questions remaining. For the first meeting following municipal elections or from the commencement of these arrangements, the Mayor will invite a representative of each political group (and any

³ A protocol providing guidance on the means by which questions can be submitted is set out in appendix 2 to these procedure rules.

independent councillors) to draw lots to determine the order at the first meeting. At subsequent meetings, the order will be rotated.

Note: Questions will be rotated on a ratio of 1:1:1:1 for Liberal Democrat, Labour, Conservative and independent members.

Written answers to questions naming an individual member

15. In the event that a member of the council is named in a response to another member's question, the monitoring officer shall make the written response available to the individual member concerned prior to the day of the council assembly meeting. The individual member shall make any representations to the monitoring officer.

2.9 SUBMISSION OF MEMBERS' MOTIONS ON NOTICE

Which meetings consider motions?

1. Members' motions will not be taken at the annual meeting and the council tax setting meeting.

Scope

2. Motions must be about matters for which the council has powers or duties or which affect Southwark. Motions or amendments to motions, shall not relate to an investigation (whether completed or not) by, or ruling for, the Standards Board for England, the standards committee or the Adjudication panel, in so far as the motion, or amendment, relates to the behaviour or conduct of an individual member or members.

Notice

3. Except for motions that can be moved without notice under rule 1.14, notice of every motion must be delivered to the monitoring officer not later than thirteen clear working days before the date of the meeting.⁴ All motions must be accompanied by a named mover and seconder by this deadline. These will be entered in a book open to public inspection. A member shall only move one such motion and second one such motion to a meeting. Any subsequent changes can only be agreed with the consent of the meeting.
4. Notice of every member's amendment to a motion shall be delivered before 12.00pm midday on the second working day before the day of the meeting at which the motion is to be moved, at the office of the monitoring officer. Each member is limited to proposing one and seconding one amendment per item of business. 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. Amendments will be circulated by 2.00pm on the working day before the meeting.

Motion set out in agenda

5. Motions for which notice has been given will be listed on the agenda unless the member giving notice states that they propose to move it to a later meeting or withdraw it.

⁴ A protocol providing guidance on the means by which motions can be submitted is set out in appendix 2 to these procedure rules.

Motions to be debated at council assembly

- 6. Unless the member, when submitting the motion, requests that the motion is debated at the council assembly, the motion will stand referred to the executive or to a committee or sub-committee, as appropriate. Having considered the motion, the executive, committee or sub-committee, shall report on the outcome of their deliberations to the next meeting of the council assembly.

Prioritisation and rotation by the political groups / independent members

- 7. Motions will be listed in the order of whip prioritisation and rotation by the political groups. Four working days before the meeting, each chief whip may list motions from members of their respective groups in an order of priority to be taken at the meeting. All remaining motions will be taken in the order of receipt.
- 8. Motions will be rotated so that one is taken from each political group's list of priorities (and any independent councillors) for so long as there are motions remaining. For the first meeting following municipal elections or from the commencement of these arrangements, the Mayor will invite a representative of each group (and any independent councillors) to draw lots to determine the order of groups at the first meeting. At subsequent meetings, the order will be rotated.

Note: Motions will be rotated on a ratio of 1:1:1:1 for Liberal Democrat, Labour, Conservative and independent members.

2.10 NOTICE FOR MOTIONS AND AMENDMENTS ON REPORTS FROM THE EXECUTIVE, AND COMMITTEES AND OFFICERS

Reports from the executive and committees to be moved separately

- 1. Each recommendation in the report from the executive member or committee shall be deemed as the motion and shall be moved separately by the member in whose name the report is submitted (or in her or his absence, by some other member who was present at the meeting). No seconder is required.

Comment [IM47]:
Updated title to reflect new combined clause on reports.

Comment [IM48]:
Updated title.

Reports submitted by officers

- 2. In the case of reports submitted direct to council assembly by officers, the recommendations shall be deemed to have been moved by the person presiding (with no seconder required) and will therefore be subject only to amendment, provided that notice has been given in accordance with the provisions of rule 3.11(2).

Comment [IM49]: Moved from clause 2.11 below to form a combined clause on reports.

Notice required for amendments

- 2. 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 before 12.00pm midday on the second working day before the day of the meeting at which the motion is to be moved, at the office of the monitoring officer. Each member is limited to proposing one and seconding one amendment per item of business. Amendments shall be placed on the agenda in order of receipt. Amendments will be circulated by 2.00pm on the working day before the meeting

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 monitoring officer (i.e. by midnight of the Monday in the week of an ordinary Wednesday council assembly meeting). Each member is limited to one question per item of business.

Circulation of questions and amendments

- 4. The monitoring officer shall arrange for copies of all questions and amendments received in accordance with paragraphs (2) and (3) above, to be circulated to members on the evening before the day of the meeting at which they are to be considered.

~~2.11 NOTICE OF QUESTIONS AND AMENDMENTS ON OFFICER REPORTS~~

~~Notice of member's questions~~

- ~~1. Notice of every member's question (but not supplemental questions) shall be given in writing, signed by the member, and delivered at least one day before the day of the meeting at the office of the monitoring officer by whom it shall be dated, numbered in the order in which it was received and entered in a book kept for that purpose which shall be open to inspection by every member of the council. The monitoring officer shall circulate copies of all such questions together with written answers by the start of the meeting.~~

~~Amendments to reports submitted by officers~~

- ~~2. In the case of reports submitted direct to council assembly by officers, the recommendations shall be deemed to have been moved by the person presiding (with no seconder required) and will therefore be subject only to amendment, provided that notice has been given in accordance with the provisions of rule 3.11(2).~~

2.12 RECORDING OF RECEIPT OF MOTIONS, AMENDMENTS AND QUESTIONS

~~A record of the date of receipt of all All motions, petitions, amendments and questions received under council assembly procedure rules 1.15, 3.6, 3.8, 3.9, 3.10, 3.11 and 3.12 shall be dated, numbered in the order in which they are received and entered in a book kept for that purpose by the monitoring officer which shall be open to inspection by every member of the council.~~

Comment [IM50]: Duplication with new clause 2.10. This section has been included the new combined clause covering executive, committee and officer reports.

Comment [IM51]: Update cross referencing.

Comment [IM52]: Updated recommended in line with current practice where by most motions, questions and amendments are submitted by email .

Comment [IM53]: CSP recommendation. To provide clarification.

Comment [IM54]: Clarification.

3. EXTRAORDINARY MEETINGS

~~This rule cannot be suspended.~~

3.1 Calling of extraordinary meetings

Those listed below may request the monitoring officer to call council meetings in addition to ~~extra~~ordinary meetings:

3.2 Calling of extraordinary meetings

Those listed below may request the monitoring officer to call council meetings in addition to extraordinary meetings:

- (i) the council by resolution;
- (ii) the Mayor;
- (iii) the chief executive; and,
- (iv) any five members of the council if they have presented a signed requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven clear working days of the presentation of the requisition.

3.2 Authority for chief executive to summon council assembly

The chief executive, as a matter of urgency, may call an extraordinary meeting of the council assembly at any time.

3.3 Business

Extraordinary meetings of the council will consider only the specific business identified ~~by the chief executive~~ as the reason for the calling of the extraordinary meeting.

Comment [IM55]: Clarification.

4. ANNUAL (MAYOR-MAKING & CONSTITUTIONAL) MEETING OF THE COUNCIL ASSEMBLY AND ANNUAL (CONSTITUTIONAL) MEETING

4.1 ANNUAL (MAYOR-MAKING AND CONSTITUTIONAL) MEETING

This rule cannot be suspended.

- 1. The council shall in every year hold an annual meeting.
- 2. In a year of ordinary elections of councillors to the council, the annual meeting shall be held on the eighth day after the day of retirement of councillors or such other day as the council may fix within the twenty-one days immediately following the day of retirement. This will normally be the third or fourth Wednesday in the month of May.
- 3. The annual meeting shall in all other years be held on the third Wednesday in the month of May, except when re-arranged (so long as it is held in March, April or May).

4.2 ANNUAL (MAYOR-MAKING AND CONSTITUTIONAL) MEETING - BUSINESS

- 1. The annual meeting will:
 - (a) elect a person to preside if the outgoing Mayor is not present;
 - (b) elect a new Mayor (the Mayor thereafter, may appoint a Deputy Mayor); and,
 - (c) receive any Mayor’s announcements, including apologies for absence;
 - (d) approve as a correct record and sign the minutes of the last meeting of the council assembly in the previous municipal year;
 - (e) elect the leader for the ensuing year;
 - (f) agree the determination and allocation of executive functions to members of the executive;

- (g) ~~establish~~ appoint (at least one) overview & scrutiny committee, a standards committee and such other committees, the number and allocation of places on each committee, their terms of reference and the appointment of chairs and vice-chairs for the coming year as the council considers appropriate to deal with matters which are neither reserved to the council assembly nor are executive functions (as set out in part 3 of this constitution);
- (h) agree the 'matters reserved for member decision' and 'scheme of delegation' or such part of it as the constitution determines it is for the council to agree (as set out in part 3 of this constitution);
- (i) receive a report from the monitoring officer as to the appointment of the leader of the majority group, the leader of the opposition, leaders of other party groups (if any) and the chief and deputy whip of each party group;
- (j) consider a report from the monitoring officer on constitutional matters for the municipal year including:
 - the draft calendar of meetings for the coming year;
 - ~~establishment of~~ constitute the voluntary bodies appointments panel as set out in Part 3. ~~panel to make recommendations on appointments to Southwark charities, to maintain a list of prospective school governors for appointment and to make local education authority appointments to secondary school governing bodies;~~⁵
 - ~~establishment of~~ the constitutional steering panel as set out in Part 3. ~~to oversee, review and recommend amendments to the constitution; to make recommendations to council assembly for the award of the Honorary Freedom of the Borough and Honorary Aldermen; and to recommend changes to the members' allowances scheme. The membership to comprise the political group whips of each party represented on the council;~~
 - the appointment of representatives to outside bodies and joint committees;
- (k) ~~receiving a report on the~~ review of the constitution.
- (l) consider the members' allowances scheme for the forthcoming municipal year;

Comment [IM56]:
Typographical change.

Comment [IM57]:
Typographical change.

Comment [LJ58]: New section in Part 3. Deleted as consequential change.

Comment [IM59]:
Typographical change.

Comment [LJ60]: New section in Part 3. Deleted as consequential change.

Comment [IM61]:
Typographical change.

⁵ In May 2006 the panel was established comprising one independent member of the standards committee and five elected councillors as follows: 2 Liberal Democrat, 2 Labour and 1 Conservative. The Charity Commissioners' advice is that appointments to charities should be made on a non-political basis. When appointed, charity trustees must act solely in the best interests of the charity and must act independently of the council. Appointment of local education authority governorships to primary school governing bodies will be made by the relevant community council from the list of prospective school governors maintained by the council.

- (m) consider other business specified in the agenda (if any); and,
- (n) consider any matters of urgency not specified in the summons.

Comment [IM62]:
Typographical change.

Comment [IM63]:
Typographical change.

Establishment and selection of councillors on committees and outside bodies

1. The annual (constitutional) meeting will:
 - (a) decide which committees to establish for the municipal year;
 - (b) decide the size and terms of reference for those committees;
 - (c) decide the allocation of seats and reserve/substitute members to political groups in accordance with the political balance rules;
 - (d) receive nominations of councillors to serve on each committee and outside body; and,
 - (e) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the council or is exercisable only by the executive.
2. The monitoring officer shall prepare and provide lists of appointments to be made by the council to the secretary of each political group represented on the council prior to the annual general meeting of each political group, taking account of the statutory rules of proportionality, where these apply. The secretary of each political group shall submit a list of the members of the group together with nominations for all appointments, as listed, to the monitoring officer not less than eight clear working days prior to the day of the annual council meeting.
3. At the termination of business, annual meetings of committees shall occur for the purposes of establishing sub-committees and making appointments to any outside bodies within the delegations to each committee.

4.3 LEADER AND EXECUTIVE

1. The leader shall be appointed at the annual meeting of the council or, at an ordinary or extraordinary council meeting as necessary.
2. In addition to the leader, between one and nine other councillors shall be appointed at the annual meeting of the council or at an ordinary or extraordinary council meeting as necessary, to serve as members of the executive.
3. The leader shall have power to vary the allocation of portfolios within the executive on an interim basis. The leader shall also have power to designate an executive member as lead executive member in respect of any policy matter that is cross-cutting. In the event that an executive member ceases to be a member of the executive, the leader shall have the discretion as to whether or not to appoint a replacement.
4. Other political groups represented on the council may nominate a councillor to act as their leader. The leader of the largest opposition political group represented on the council shall be known as the leader of

the opposition and shall act as the spokesperson for the opposition on all matters of general policy and business.

4.4 APPOINTMENT OF RESERVE/SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

Allocation

- 1. As well as allocating seats on non-executive committees and sub-committees, the council will allocate seats in the same manner for reserve/substitute members.

Number

- 2. For each committee or sub-committee, council assembly will appoint one fewer reserve seats(s) than a political group holds ordinary seats, subject to a minimum of one.

Powers and duties

- 3. Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

Substitution

- 4. At the commencement of each meeting each political group shall announce whether any of the named voting members are to be substituted by a reserve or deputy. This substitution shall remain in effect for the whole of the meeting.

4.5 PROPER OFFICER SHALL MAKE OR TERMINATE APPOINTMENTS IF NECESSARY

- 1. Whenever an appointment of a voting member of a committee or sub-committee falls to be made in accordance with the wishes of a political group to whom the seat has been allocated, and whenever such an appointment falls to be terminated in accordance with such wishes, then the proper officer shall make or terminate the appointment accordingly and inform the appropriate committee or sub-committee at its next available meeting. The proper officer shall maintain a full list of committee and sub-committee memberships. In the event of the termination of an appointment, in accordance with the wishes of a political group, the proper officer is to inform the individual concerned, in writing, within three days of notice being received.

Notification of appointments, resignations and termination of appointments

- 2. All appointments to and resignations from the membership of committees and sub-committees must be submitted in writing to the monitoring officer. A minimum of five clear working days must elapse from the date of receipt of such notices before any appointments become effective. Any ~~appointments,~~ resignations or terminations become effective immediately.

Comment [IM64]:
Typographical change.

4.6 CONTINUING MEMBERSHIP OF THE MAYOR AND DEPUTY MAYOR IN COUNCIL ELECTION YEAR

This rule cannot be suspended.

Comment [IM65]:
Clarification.

1. In a year when the term of office of the Mayor spans full council elections, the Mayor shall continue in office and remain as a member of the council notwithstanding that he/she does not seek or achieve re-election as a councillor.
2. In a year when the term of office of the Deputy Mayor spans full council elections, the Deputy Mayor shall continue in office but will not remain as a member of the council unless he/she achieves re-election as a councillor.
3. The term of office of the Mayor and Deputy Mayor in an election year shall continue until the annual meeting of the council assembly.

4.7 VOTING RIGHTS OF MAYOR AT ANNUAL MEETINGS

This rule cannot be suspended.

1. If the person presiding at the annual meeting would have ceased to be a member of the council s/he shall not be entitled to vote in the election of the new Mayor except in accordance with paragraph 2 below.

Comment [IM66]:
Clarification.

Casting Vote

This rule cannot be suspended.

2. In the case of an equality of vote, the person presiding at the meeting shall give a casting vote in addition to any other vote she/he may have.

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

5.1 Freedom of the Borough

1. The council assembly at a specially convened meeting shall consider the recommendation of the constitutional steering panel group 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.

Comment [IM67]:
Updated.

5.2 Honorary Alderman

1. The council assembly at a specially convened meeting shall consider the recommendation of the constitutional steering panel 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 has rendered eminent service to Southwark as a past member of the council, and who is not then a councillor 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.

Comment [IM68]:
Updated.

6. EXCLUSION OF THE PUBLIC

- ~~1. Members of the public and press may only be excluded either in accordance with the access to information rules in part 4 of this constitution or rule 1.7(2) (disturbance by public).~~

Comment [IM69]:
Duplication.

6. MEMBERS' CONDUCT

~~Standing to speak~~

1. ~~When a member speaks at council assembly they must stand, if able to do so, and address the meeting through the chair. If more than one member stands, the chair will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.~~

Comment [LJ70]: Duplicated in 1.12 (1).

~~Chair standing~~

2. ~~When the chair stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.~~

Comment [LJ71]: Duplicated in 1.12 (2).

~~Members' statements~~

3. No member shall mislead the council assembly on a matter of fact. If a misleading statement is made, the member shall inform council assembly at the earliest opportunity and offer a correct statement.
4. A member who knowingly makes a misleading statement to council assembly may be regarded as bringing the council and its proceedings into disrepute. If this is the case then a breach of the members' code of conduct is likely to occur.

7. SUSPENSION AND AMENDMENT OF COUNCIL ASSEMBLY PROCEDURE RULES

~~Suspension~~

1. Council assembly procedure rules ~~1.1 (1), 1.2 (1), 1.3, 1.4, 1.5, 1.7, 1.9, 1.10, 1.11, 1.13 (6), 1.16 (1, 2, 3, 26 and 27), 1.17 (1, 2, 5 and 6), 2.1, 2.2, 3.3 (4 and 5), 3.4, 3.8 and 4.2~~ may not be suspended. All the other rules may be suspended by motion on notice or without notice if at least one half of the whole number of ~~the~~ members of the council are present. Suspension can only be for the duration of the meeting.

Comment [IM72]: References to be updated.

~~Amendment~~

2. Any motion to add to, vary or revoke these council assembly rules of procedure will, when proposed and seconded, stand adjourned without discussion to be considered by the constitutional steering ~~panel~~ group for report to the next ~~ordinary~~ meeting of the council.

Comment [IM73]: Updated.

9. ~~INTERIM DECISION MAKING ARRANGEMENTS FOR THE PERIOD BETWEEN A MUNICIPAL ELECTION AND CONSTITUTIONAL COUNCIL~~

Comment [IM74]: Clarification.

1. ~~During a year in which full council elections are held in the period between the elections and the first meeting of the executive/respective committees, the leaders (or in their absence the deputy leaders) of the two largest political groups are empowered to act as an urgency committee in respect of any urgent decisions which are not reserved by law to council assembly for decision. It will be possible for one member of the urgency committee to refer any decision as a recommendation to a meeting of the council assembly.~~

Comment [IM75]: Moved to committee procedure rules.

Protocol governing the discussion in council assembly on investigations and rulings of the Standards Board for England, standards committee and the adjudication panel

Comment [IM76]: This appendix to be update in line with new arrangements for hearing complaints though the local filter.

In addition to the provisions provided for in rules 1.16 (3)(e), 3.6.3, 3.7.4, 3.9.8, 3.10.4 and 3.12.4 of the council assembly procedure rules, members should note that:

A member or members of the council assembly as a whole should not comment on an investigation that is being undertaken or has been completed, or a ruling of the Standards Board for England, the standards committee or the Adjudication Panel except by moving a motion that relates to a general corporate action.

A general corporate action would include:

- raising concerns about general behaviour or standards in the council, that do not expressly refer to a particular member or members;
- calling for the council to develop additional protocols governing members' conduct or actions;
- calling for the council to review or amend existing protocols governing members' conduct or actions to ensure that they are providing members with clear and comprehensive guidance on conduct issues; and,
- calling for the council to undertake member development training on the code of conduct, or any part of it, or protocol to increase awareness amongst members of the existence and contents of the council protocols and code of conduct.

Council assembly should delegate a request for a general corporate action to the appropriate committee or officer (for example a request to revise the member and officer protocol would need to be referred to the standards committee).

Calls for a particular member or members to take further action, including calling on a member or members to make a public apology, resign or any other action that could be taken to be a punitive action against that member or members, will be ruled out of order by the Mayor on advice from the monitoring officer.

APPENDIX 2

~~Protocol for receipt of members' questions, motions and amendments~~

Members may submit questions, motions and amendments in the following forms:

- ~~(1) in writing or faxed (in which case they should be accompanied by the signature of the member moving (and seconder); or,~~
- ~~(2) by email (in which case they can be sent unsigned — items can also be sent on behalf of a member by a group officer (leader, deputy leader or chief whip) or political assistant).~~

In the case of (2) above the following protocol shall apply.

Protocol

- ~~1. Motions, questions and amendments will be accepted when received from a member's official Southwark e-mail address.~~
- ~~2. Motions, questions and amendments will be accepted from any alternative e-mail address notified either in writing to the monitoring officer or from the member's official Southwark e-mail address prior to the relevant deadline.~~
- ~~3. Motions and amendments submitted in a member's name by a group officer (leader, deputy leader or chief whip) or political assistant will be forwarded to the member's official Southwark e-mail address or by the most practical means within 24 hours of the relevant deadline.~~
- ~~4. It will be the responsibility of the relevant member to check that motions, questions and amendments submitted by a group officer on their behalf are correct.~~
- ~~5. Motions, questions and amendments may still be submitted in the traditional way i.e. in writing, by fax.~~

Comment [IM77]:
CSP recommendation to delete.
This will be maintained by officers as a separate protocol outside of the constitution.

Comment [LJ78]: Deleted as no longer relevant).



COMMITTEES AND COMMUNITY COUNCILS PROCEDURE RULES

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Comment [IM1]:
New sections. All numbering and cross referencing still to be finalised.

Information to members of the public:

Members of the public may attend any meeting of the council's committees, sub-committees and community councils subject to the business being considered at the meeting not being exempt under the provisions set out in the access to information rules.

Suspension of council assembly rule

The following will indicate when a certain rule may not be suspended:

"This rule cannot be suspended."

1.0 GENERAL PROCEDURES APPLYING TO ALL COMMITTEES AND COMMUNITY COUNCIL MEETINGS

1.1 NO SMOKING/ EATING AT MEETINGS

~~1.* No smoking or eating shall be permitted at any committee meeting.~~

Comment [IM2]: Rule deleted to be consistent with council assembly procedure rules. Reference to smoking no longer required due to legislation. Noted that food is provided for some meetings.

1.2 NOTICE AND SUMMONS OF MEETINGS

This rule cannot be suspended.

1. The monitoring officer will give notice to the public of the time and place of any meeting in accordance with the access to information rules. At least five clear working days before a meeting, the chief executive will send a summons signed by him or her by post to every member of the committee or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

Time and place

1. Unless the meeting, or the chair, shall otherwise decide, all meetings shall commence at 7.00 pm.
2. The ordinary place of meeting for committees shall be Town Hall, Peckham Road, London SE5 unless otherwise specified in the summons. Community councils shall meet at local venues.

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4. Meetings may only be convened at less than five clear working days notice where by reason of special circumstances, which shall be specified in the summons, the meeting is required to be called at that time as a matter of urgency.

Dates and frequency of meetings

5. Council assembly at its constitutional meeting in May shall fix the dates that all council committees, sub-committees and community councils shall meet for the municipal year.
6. The chair of a committee, sub-committee or community council may direct the chief executive to call a special meeting of the committee, sub-committee or community council at any time.

Cancellation of meetings

7. The chair, in consultation with the monitoring officer may cancel a meeting or direct that an ordinary meeting of the relevant committee, sub-committee or community council be not called.

1.3 QUORUM

This rule cannot be suspended.

1. No business shall be considered unless 25% of the membership are present in the meeting room, except for the following meetings for which the quorum is:
Disciplinary appeals committee = three

Licensing sub-committees = three¹

If the chair considers the meeting to be inquorate, the meeting shall stand deferred for 15 minutes. If after 15 minutes' deferment there is still no quorum then the consideration of any business not transacted shall be held over to the next ordinary meeting of the committee, unless the chair fixes an alternative date.

Quorum at start of meeting

- 2. The meeting shall commence as soon as there is a quorum, following the time at which the meeting has been appointed to be held.

1.4 POWERS OF THE CHAIR/VICE-CHAIR

This rule cannot be suspended.

- 1. The chair shall decide, having taken the advice of the monitoring officer, all matters of order, competence, relevancy and interpretation of committee and community councils procedure rules relating to the conduct of the meeting.

1.5 PREVENTION OF DISORDERLY CONDUCT

This rule cannot be suspended.

- 1. A councillor may be directed to discontinue speaking if the chair considers the councillor is being repetitive, irrelevant, uses unbecoming language, or is in some other way breaching the order of the meeting. If a member persistently disregards the ruling of the chair by behaving improperly or offensively or deliberately obstructs business, the chair having warned the councillor shall move that the councillor called by name leaves the meeting. The motion, if seconded, shall be put immediately to the vote without further debate and if carried the councillor shall leave immediately.
- 2. In the case of a member of the public disrupting the meeting or if there is a general disturbance, the chair may order the removal of a person or that the public areas be cleared. Re-admission shall be at the discretion of the chair.
- 3. In the event of a general disturbance making orderly business impossible, the chair may adjourn the meeting for as long as he/she thinks necessary for order to be restored.

1.6 BROADCASTING AND RECORDING

1. Electronic recording, photographing or filming of the proceedings of a committee, sub-committee or community council meeting by any member of the public, media or councillor shall only take place with the prior agreement of the chair. The chair will make an announcement at the beginning of the meeting on any arrangement agreed.

Comment [LJ3]: CSP recommendation.

1.7 DECLARATION OF INTERESTS

This rule cannot be suspended.

¹ The procedures governing the proceedings of the licensing sub-committees are set by the licensing committee. The licensing committee agreed on the May 17 2005 that the quorum of sub-committees shall be three members.

1. Councillors shall abide by the members' code of conduct. It is the responsibility of every councillor to declare an interest by the time the relevant item of business is reached.

1.8 RULES OF DEBATE

1. A councillor may indicate their desire to speak by raising their hand, but shall only speak when called by name by the chair.
2. Councillors shall address the chair when speaking, and:
 - (a) refer to each other as Mayor, Deputy Mayor, leader, executive member, chair or councillor, as the case may be;
 - (b) refrain from using unbecoming language;
 - (c) refrain from comments of a personal nature about another councillor;
 - (d) not attribute improper motives to another councillor; and,
 - (e) speeches must be directed to the matter under discussion or to a personal explanation or point of order.
3. No debate shall be allowed except in relation to a motion or amendment under consideration. Only one motion or amendment may be considered at a time. A motion or amendment once moved and seconded, may be withdrawn only by the mover and seconder, with the consent of the meeting. No further debate shall take place on a motion or amendment once it has been withdrawn.
4. Every motion or amendment must be moved and seconded. A councillor may not move more than one amendment or motion on the same subject.

Secunder's speech

5. When seconding a motion or amendment, the seconder may reserve their speech until later in the debate.

Amendments to motions

6. An amendment to a motion must be in writing, be relevant to the motion and will either be:
 - (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (b) to leave out words;
 - (c) to leave out words and insert or add others; or,
 - (d) to insert or add words.

As long as the effect of (b) to (d) is not to negate the motion.

7. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been completely dealt with.

Right of reply

8. The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
9. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it. If an amendment is carried, the mover of the amendment shall hold the right to reply to any subsequent

amendments and, if no further amendments are carried, at the conclusion of the debate on the substantive motion.

- 10. The mover of the amendment has no right of reply to the debate on his or her amendment.

Motions which may be moved during debate

- 11. When a motion is under debate, no other motion may be moved except the following procedural motions:
(a) to withdraw a motion;
(b) to amend a motion;
(c) to proceed to the next business;
(d) that the question be now put;
(e) to adjourn a debate;
(f) to adjourn a meeting;
(g) to exclude the public and press in accordance with the access to information rules; and,
(h) to not hear further a member named under rule 1.5(1) or to exclude them from the meeting under rule 1.5(1).

The procedures governing closure motions (see 11(c), 11(d), 11(e) and 11(f) above), which are contained in the council assembly procedure rules shall be followed.

Point of order

This rule cannot be suspended.

- 12. A member may raise a point of order at any time during the meeting. The chair will hear them immediately. A point of order may only relate to an alleged breach of the committee and community councils procedure rules or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the chair on the matter will be final.

Comment [IM4]: Consistency with proposed change in council assembly procedure rules.

Personal explanation

This rule cannot be suspended.

- 13. A member may request to make a personal explanation at any time during the meeting. A personal explanation may only enable the member to refute or correct a statement attributed to him/her or any action he/she has taken.

Comment [IM5]: Consistency with proposed change in council assembly procedure rules.

The procedures governing personal explanations contained in council assembly procedure rule 1.16 (27) shall be followed.

1.9 VOTING

Majority

This rule cannot be suspended.

- 1. Unless this constitution provides otherwise or it is required by statute, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put to the vote.

Chair’s casting vote

This rule cannot be suspended.

- 2. If there are equal numbers of votes for and against, the chair will have a second or casting vote. There will be no restriction on how the chair chooses to exercise a casting vote.

Show of hands

- 3. The chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

Right to require individual vote to be recorded

This rule cannot be suspended. This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993

- 4. Where any member requests it immediately after the vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

Voting on appointments

This rule cannot be suspended.

- 5. If there are more than two people nominated for any position to be filled, the names will be put to the vote in alphabetical order and the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

1.10 FORMAL RECORDS TO BE MAINTAINED

All meetings of the council committees, sub-committees and community councils are to be clerked by a representative of the monitoring officer, with minutes to be produced including details of members attending each meeting and details of decisions taken. Copies of all agendas and minutes are to be maintained by the monitoring officer.

2. APPOINTMENT OF MEMBERS TO COMMITTEES

2.1 APPOINTMENT OF RESERVE/SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

Powers and duties²

- 1. Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

Comment [IM6]: Delete footnote as now out of date and for information only.

Substitution

- 2. At the commencement of each meeting each political group shall announce whether any of the named voting members are to be substituted by a reserve or deputy. This substitution shall remain in effect for the whole of the meeting.

²In respect to the numbers of members serving on each committee or sub-committee, council assembly will appoint one fewer reserve seat(s) than a political group holds ordinary seats, subject to a minimum of one.

2.2 PROPER OFFICER SHALL MAKE OR TERMINATE APPOINTMENTS IF NECESSARY

1. Whenever an appointment of a voting member of a committee or sub-committee falls to be made in accordance with the wishes of a political group to whom the seat has been allocated, and whenever such an appointment falls to be terminated in accordance with such wishes, then the proper officer shall make or terminate the appointment accordingly and inform the appropriate committee or sub-committee at its next available meeting. The proper officer shall maintain a full list of committee and sub-committee memberships. In the event of the termination of an appointment, in accordance with the wishes of a political group, the proper officer is to inform the individual concerned, in writing, within three days of notice being received.

Notification of appointments, resignations and termination of appointments

2. All appointments to and resignations from the membership of committees and sub-committees must be submitted in writing to the monitoring officer. A minimum of five clear working days must elapse from the date of receipt of such notices before any appointments become effective. Any appointments, resignations or terminations become effective immediately.

Comment [IM7]:
Typographical change.

3. AGENDA AND MINUTES

3.1 ORDER OF BUSINESS AT COMMITTEE, SUB-COMMITTEE AND COMMUNITY COUNCIL MEETINGS

1. The order of business at every meeting shall be:
 - (a) to choose a person to preside if the chair and vice-chair are absent;
 - (b) apologies for absence;
 - (c) declarations of interest;
 - (d) to approve the minutes of the previous meeting, which shall then be signed by the person presiding;
 - (e) to receive reports of the officers; and,
 - (f) any other business specified in the summons.

3.2 VARIATION IN ORDER OF BUSINESS

1. Business falling under paragraph 3.1 shall not be moved but, subject thereto, the order of business or the timing of the business may be varied
 - (a) by the chair in consultation with the monitoring officer; or,
 - (b) by a resolution passed on a motion which shall be put without debate.

3.3 MINUTES

Minutes

1. The monitoring officer shall ensure that a record is made of the decisions taken at every meeting of the council. The minutes shall also include a record of the councillors in attendance, those absent and any apologies received. The declaration of any personal interest shall be recorded in the minutes of the meeting, including whether the councillor remained present or withdrew from the meeting for the duration of the discussion.

Signing the minutes

This rule cannot be suspended.

2. The chair will sign the minutes of the proceedings at the next suitable meeting. The chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

3. **No requirement to sign minutes of previous meeting at extraordinary meeting**

This rule cannot be suspended. This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993.

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

3.4 ADMISSION OF PRESS AND PUBLIC

1. Members of the public and press shall be admitted to all meetings of committees, sub-committees and community councils subject to the access to information rules in part 4 of the constitution or rule 1.5 (Disturbance by public).

Public speaking at committee

2. *(This section does not apply to planning or licensing applications where separate procedures exist).*

Members of the public shall only address a meeting of a committee or sub-committee or community council as part of a deputation or at the discretion of the chair.

3.5 RECORD OF ATTENDANCE

This rule cannot be suspended.

All members during the whole or part of a meeting must sign their names on the attendance sheets and their time of departure, if before the meeting ends, before the conclusion of any meeting to assist with the record of attendance.

4. DEPUTATIONS

Who may request a deputation?

1. Deputations can only be made by a group of people resident or working in the borough.

Composition of deputation

2. The deputation shall consist of no more than six persons, including the spokesperson.

Scope of deputations

3. The chair in consultation with the monitoring officer may reject a deputation if it:
 - (a) is a request from a group 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;
 - (b) is not about a matter for which the council has powers or duties or which affects Southwark;
 - (c) is defamatory, frivolous or offensive;
 - (d) requires the disclosure of confidential or exempt information;
 - (e) concerns a planning or licensing application;
 - (f) raises a grievance for which there are other established processes for resolution; or,
 - (g) relates to an investigation (whether completed or not) by, or ruling of, the Standards Board of 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.

Form of the deputation

4. 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.
5. An application for a deputation to be heard shall be submitted by a representative of the deputation in writing to the monitoring officer. Any written representations associated with a deputation should 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 meeting.

Agenda

6. Deputations shall be dealt with in the order in which they are received.
7. Subject to complying with the regulations herein, details of written deputations will be included on the agenda papers for the meeting.

What happens at the meeting?

8. The monitoring officer shall report the request for the deputation to the meeting. The meeting, without debate, shall decide:
 - (a) that the deputation be received at this meeting or a future meeting; or,
 - (b) that the deputation not be received; or,
 - (c) that the deputation shall be referred to the most appropriate committee/sub-committee/community council.

The monitoring officer shall arrange for the attendance of any deputation. In doing so s/he shall inform the applicants that the meeting has discretion as to whether or not to receive the deputation.

Speech on behalf of deputation

9. Only one member of the deputation shall be allowed to address the meeting, her or his speech being limited to five minutes.

Questions to the deputation and time limit

10. Members of the meeting 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 five minutes at the conclusion of the spokesperson's address.

No debate during deputation

11. Members shall not debate any issues arising out of the deputation, or the item to which it relates, with any members of the deputation.

Deputation to withdraw from the floor

12. As soon as the questions to the deputation have been concluded, the deputation shall withdraw from the floor and return to the public area where they may remain (subject to any resolution excluding the attendance of the public).

Debate, motion and amendments

13. 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 be then open to debate by the meeting. If the subject does not relate to a report on the agenda, members may move motions and amendments without prior notice.

Debate on deputations concerning reports on the agenda

14. Having received the deputation(s) on a matter subject to a report on the agenda, the chair will seek the 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. If the motion is lost, the subject matter will not be debated until the relevant item is reached on the order of business.

Subject of deputation not on agenda

15. If the subject of the deputation does not relate to a report on the agenda, members may move motions and amendments without prior notice.

Formal communication of the meeting's decision

16. The monitoring officer shall, in writing, formally communicate the decision of the meeting to the person who submitted the request for the deputation to be received.

Deputations concerning licensing or planning applications

17. Deputations or representations received concerning licensing or planning applications will not be considered by committees of the council. Any such representations received should be forwarded to the appropriate proper officer(s) for consideration as part of the formal consultation on such applications.

~~6. INTERIM DECISION MAKING ARRANGEMENTS FOR THE PERIOD BETWEEN A MUNICIPAL ELECTION AND THE CONSTITUTIONAL COUNCIL~~

~~6.1. During a year in which full council elections are held, in the period between the elections and the first meeting of the executive/respective committees, the leaders (or in their absence the deputy leaders) of the two largest political groups are empowered to act as an urgency committee in respect of any urgent decisions which are not reserved by law to council assembly for decision. It will be possible for one member of the urgency committee to refer any decision as a recommendation to a meeting of the council assembly.~~

Comment [IM8]: See below.

ADDITIONAL RULES APPLYING TO AUDIT AND GOVERNANCE COMMITTEE

Composition

- (a) The committee will consist of:
 - At least three councillors, and up to five councillors, including at least one member of each political group as defined by the Local Government and Housing Act 1989 Regulation 8 Local Government (Committees and Political Groups) Regulations 1990.
- (b) No more than one member of the executive may be a member of the committee, and no executive member may chair the committee.
- (c) No more than one member of the overview & scrutiny committee may be a member of the committee, and no overview & scrutiny committee member may chair the committee.
- (d) The leader of the council may not be a member of the committee.

Quorum

- (e) The quorum for the meeting is two members.

ADDITIONAL RULES APPLYING TO COMMUNITY COUNCILS

Comment [IM9]: New title.

Order Of Business

Agendas and notices for community councils meetings, which deal with both functions of the executive and functions that are not the responsibility of the executive, will state clearly whether an item relates to an executive or non-executive function.

Comment [IM10]: Provision moved from Article 10.04.

5. Public Question Time

(This applies to community councils only)

- 1. The chair, in consultation with the monitoring officer, shall have discretion to include a public question time on the order of business and to determine the time allocation for public question time.

2. A resident or business ratepayer of the borough may ask one question on any matter in relation to which the council has powers or duties.
3. Each question must provide the name and address of the questioner.
4. Questions shall be dealt with in the order in which they are received. A copy of each question shall be given to the chair. The content of any answers shall be within the discretion of the appropriate chair.

Scope of questions

5. The chair in consultation with the monitoring officer may reject a question if it:
 - is not about a matter for which the council has powers or duties or which affects Southwark;
 - is defamatory, frivolous or offensive;
 - is substantially the same as a question which has been put at a meeting 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; or,
 - relates to an investigation (whether completed or not) 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.

ADDITIONAL RULES APPLYING TO STANDARDS COMMITTEE

Composition

Comment [IM11]:
New section. Provisions moved from Article 9.

The committee will consist of:

- At least four councillors, and up to seven councillors, including at least one member of each political group as defined by the Local Government and Housing Act 1989 Regulation 8 Local Government (Committees and Political Groups) Regulations 1990;
 - Up to six independent members, appointed in accordance with the Relevant Authorities (Standards Committee) Regulations 2001; and,
 - Reserve members for the councillor members of standards committee, shall be equal to the number of places each political group has on the committee;
- (b) The political balance rules in section 15 of the Local Government and Housing Act 1989 do not apply to the standards committee.
 - (c) Independent members must make up at least 25% of the committee's total membership.

- (e) No more than one member of the executive may be a member of the committee, and no executive member may chair the committee.
- (f) The leader may not be a member of the standards committee.

Independent Members

- (d) **Voting.** Independent members may vote.
- (e) **Term of Office.** With six independent members, the terms of office of each member will be for three years with each member retiring at the end of their term. Members shall serve a maximum of two terms.

Chair

- (g) The chair of the standards committee will be elected from among the independent members at the first meeting of the committee in each municipal year.

Quorum

- (i) The quorum for the meeting of standards committee or its sub-committees is three members, including at least one independent member.

Sub-committees

- (j) The committee is empowered to establish sub-committees to filter, review filter decisions and hear complaints of misconduct against councillors (including co-opted and independent members). The membership for each sub-committee will be drawn from the pool of independent members and councillors on the committee, including reserve members.
- (k) Sub-committees shall be composed of three members including at least one independent member. Rules 9.02 (b) – (d) and (f) – (i) shall apply to sub-committee meetings.

Comment [IM12]: Update references.

ADDITIONAL RULES APPLYING TO URGENCY COMMITTEE

Comment [IM13]: New title.

6. Interim Decision Making Arrangements for the period between a Municipal Election and the Constitutional Council

- 6.1. During a year in which full council elections are held, in the period between the elections and the first meeting of the executive/respective committees, the leaders (or in their absence the deputy leaders or nominees) of the two largest political groups are empowered to act as an urgency committee in respect of any urgent decisions which are not reserved by law to council assembly for decision. It will be possible for one member of the urgency committee to refer any decision as a recommendation to a meeting of the council assembly.

Comment [IM14]: Consistency.

Urgency Sub-Committees – Add reference here.

Comment [IM15]: See proposals for arrangements in Part 3.

APPENDIX 8

Executive procedure rules

1. HOW THE EXECUTIVE OPERATES

1.1 Who may make executive decisions

~~— The arrangements for the discharge of executive functions are set out in the executive arrangements adopted by the council. These arrangements may provide for executive functions to be discharged by:~~

- ~~(a) the executive as a whole;~~
- ~~(b) a committee of the executive;~~
- ~~(c) an individual member of the executive;~~
- ~~(d) community councils;~~
- ~~(e) an officer;~~
- ~~(f) joint arrangements; or,~~
- ~~(g) another local authority.~~

Comment [IM1]: Clauses 1.1, 1.2 and 1.3 moved to revised Article 7.

1.2 Delegation by the leader

~~— At the annual meeting of the council, the leader will present to the council a written record of delegations made by him/her for inclusion in the council's scheme of delegation at part 3 to this constitution. The document presented by the leader will contain the following information about executive functions in relation to the coming year:~~

- ~~(a) the extent of any authority delegated to executive members individually, including details of the limitation on their authority;~~
- ~~(b) the terms of reference and constitution of such executive committees as the leader appoints, the names of executive members appointed to them, the vice chair of the committees and the frequency of its meetings;~~
- ~~(c) the nature and extent of any delegation of executive functions to community councils, any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year; and,~~
- ~~(d) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.~~

~~1.3 The council's scheme of delegation and executive functions~~

~~The council's scheme of delegation will be subject to adoption by the council assembly and may only be amended by the council assembly. The scheme of delegation is set out in part 3 of this constitution.~~

1.4 Conflicts of interest

- (a) Where the leader has a conflict of interest this should be dealt with as set out in the council's code of conduct for members in **part 5** of this constitution.
- (b) If every member of the executive has a conflict of interest this should be dealt with as set out in the council's code of conduct for members in part 5 of this constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the executive, an individual member of the executive or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the council's code of conduct for members in part 5 of this constitution.

Comment [IM2]: Officers to advised on updated wording for this reference in clauses 1.4 (a) – (c).

1.5 How decisions are to be taken by the executive

- (a) Executive decisions which have been delegated to the executive as a whole will be taken at a meeting convened in accordance with the access to information rules in part 4 of the constitution and in accordance with the procedures in section 2 below.
- (b) Where executive decisions are delegated to a committee of the executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the executive as a whole except as otherwise stated in part 3E of this constitution.
- (c) Where executive decisions are delegated to individual members of the executive they will be taken in accordance with the procedures in section 3 below.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

2. HOW EXECUTIVE MEETINGS ARE CONDUCTED

2.1 Executive meetings – timing and location

The executive will meet at least ten times per year at times to be agreed by the leader. The executive meetings must take place in the borough.

2.2 Public or private meetings of the executive

Meetings of the executive shall be open to the press and public unless the business under consideration is exempt or confidential as defined in the

access to information rules as set out in part 4 of this constitution. There will be no private meetings of the executive.

2.3 Quorum

- (a) The quorum for a meeting of the executive shall be one quarter (or 3 whichever is larger) of the total number of members of the executive, including the leader or deputy leader.
- (b) The quorum for a meeting of an executive committee shall be one quarter of the total number of members of the executive on the committee or 3 whichever is larger.

2.4 Who presides

If the leader is present he/she will preside. In his/her absence, then the deputy leader shall chair the meeting. In the absence of the leader and deputy leader, an executive member shall be appointed to preside by those present. A committee of the executive shall be chaired by the leader and in his absence the vice-chair of the committee as appointed by the leader shall chair the meeting.

2.5 Who may attend

Members of the public may attend all meetings subject to the restrictions set out in the access to information rules in part 4 of this constitution.

2.6 Business

At each meeting of the executive the following business will be conducted:

- (a) apologies for absence
- (b) notification of urgent items, if any;
- (c) declarations of interest, if any;
- (d) public question time – 15 minutes;
- (e) minutes of the last meeting;
- (f) matters referred to the executive (whether by the overview & scrutiny committee or by the council assembly) for reconsideration by the executive in accordance with the provisions contained in the overview & scrutiny procedure rules or the budget and policy framework procedure rules set out in part 4 of this constitution;
- (g) consideration of reports from overview & scrutiny committees/sub-committees; and,
- (h) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the access to information procedure rules set out in part 4 of this constitution.

Comment [PT3]: This was not in rules previously.

Deleted: minutes of the last meeting;

Deleted: declarations of interest, if any;

Deleted: public question time – 15 minutes;

2.7 Consultation

All reports to the executive from any member of the executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant overview & scrutiny committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.8 Who can put items on the executive agenda

The leader will decide upon the schedule for the meetings of the executive. He/she may put on the agenda of any executive meeting any matter which he/she wishes, whether or not authority has been delegated to the executive, a committee of it or any officer in respect of that matter. The proper officer will comply with the leader's requests in this respect.

Any member of the executive may require the proper officer to make sure that an item is placed on the agenda of the next available meeting of the executive for consideration. If he/she receives such a request the proper officer will comply.

The proper officer will make sure that an item is placed on the agenda of the next available meeting of the executive where the overview & scrutiny committee or the full council have resolved that an item be considered by the executive.

Any member of the council may ask the leader to put an item on the agenda of an executive meeting for consideration, and if the leader agrees the item will be considered at the next available meeting of the executive. The notice of the meeting will give the name of the councillor who asked for the item to be considered.

The monitoring officer and/or the finance director may include an item for consideration on the agenda of an executive meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the head of paid service, finance director and monitoring officer are of the opinion that a meeting of the executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

2.9 Formal records to be maintained

No meeting of the executive shall commence or conduct business unless the monitoring officer or her/his representative is present. All meetings are to be clerked by a representative of the monitoring officer, with minutes to be produced including details of members attending each meetings and details of decisions taken. Copies of all agendas and minutes are to be maintained by the monitoring officer.

2.10 Public questions at executive meetings

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 monitoring officer.
3. Each question must provide the name and address of the questioner and name the executive member to whom the question should be put.

Comment [IM4]: The public questions rule has been moved in front of the deputations rule so it is consistency with order of business in clause 2.6. Revised title so consistent with deputations title.

Deleted: Procedures at executive meetings for public questions

Scope of questions

4. The leader in consultation with the monitoring officer may reject a question if it:
 - is not about a matter for which the council has powers or duties or which affects Southwark;
 - 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; or,
 - relates to an investigation (whether completed or not) 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 monitoring officer will maintain a record of each question which will be open to public inspection. Rejected questions will include reasons for rejection.

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Comment [PT5]: Again, to just reflect most questions emailed and this amendment would also cover hand written questions.

Asking the question at the meeting

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

Supplemental question

7. Any supplemental question will be at the discretion of the chair.

Written answers

8. 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.

Late or urgent questions

9. To preserve the ability for public questions to take place in connection with late or urgent items added to the executive agenda after the normal deadlines for such questions, the leader or in his/her absence the deputy leader shall at

the meeting have the discretion to decide whether or not accept a late and urgent public question.

2.11 Deputations to the executive

Who may request a deputation?

1. Deputations can only be made by a group of people resident or working in the borough.

Composition of deputation

2. The deputation shall consist of no more than six persons, including the spokesperson.

Scope of deputations

3. The chair in consultation with the monitoring officer may reject a deputation if it:
 - (a) is a request from a group of people who have alternative means of expressing their views through recognised channels eg employees of the authority, trade unions representing staff employed by the authority etc;
 - (b) is not a matter for which the council has powers or duties or which affects Southwark;
 - (c) is defamatory, frivolous or offensive;
 - (d) requires the disclosure of confidential or exempt information;
 - (e) concerns a planning or licensing application;
 - (f) raises a grievance for which there are other established processes for resolution; or,
 - (g) relates to an investigation (whether completed or not) 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.

Form of the deputation

4. 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.
5. Any written representations associated with a deputation should be submitted at the same time as the request for a deputation.

Deadlines

6. An application for a deputation to be heard shall be submitted by a representative of the deputation in writing to the monitoring officer no later than nine clear working days before the day of the executive meeting. The date and time of the receipt of such requests will be recorded.

Comment [PT6]: Updated in line with current practice. Most requests are received by email.

Late or urgent deputations

7. To preserve the ability for deputations to take place in connection with late or urgent items added to the executive agenda after the normal deadline for deputations, the leader or in his/her absence the deputy leader shall at the meeting have the discretion to decide whether or not to accept a late and urgent deputation.

Deleted: in a book kept for that purpose.

Agenda

8. Deputations shall be dealt with in the order in which they are received.

9. Subject to complying with the regulations herein, details of written deputations will be included on the agenda papers for the meeting of the executive.

Deleted:

10. If the matter is not dealt with by executive, the matter shall be referred without debate to the relevant executive member who shall, after consideration, respond with an open reply to the sender.

What happens at the meeting?

11. The monitoring officer shall report the request for the deputation to the executive. The meeting, without debate, shall decide:
- (a) that the deputation be received at this meeting or a future meeting; or,
 - (b) that the deputation not be received; or,
 - (c) that the deputation shall be referred to the most appropriate committee/sub-committee/community council.

The monitoring officer shall arrange for the attendance of any deputation. In doing so s/he shall inform the applicants that the executive has discretion as to whether or not to receive the deputation.

Speech on behalf of deputation

12. Only one member of the deputation shall be allowed to address the executive, her or his speech being limited to five minutes.

Questions to the deputation and time limit

13. Members of the executive 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 five minutes at the conclusion of the spokesperson's address.

No debate during deputation

14. Members shall not debate any issues arising out of the deputation, or the item to which it relates, with any members of the deputation.

Deputation to withdraw from the floor

15. As soon as the questions to the deputation have been concluded, the deputation shall withdraw from the floor and return to the public area where they may remain (subject to any resolution excluding the attendance of the public).

Comment [IM7]: Clarification.

Debate, motion and amendments

16. 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 be then open to debate by the executive. If the subject does not relate to a report on the agenda, members may move motions and amendments without prior notice.

Formal communication of the executive’s decision

17. The monitoring officer shall, in writing, formally communicate the decision of the executive to the person who submitted the request for the deputation to be received.

Deputations concerning licensing or planning applications

18. Deputations or representation received concerning licensing or planning applications will not be considered by executive. Any such representations received should be forwarded to the appropriate proper officer(s) for consideration as part of the formal consultation on such applications.

2.11 Public questions at executive meetings

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 monitoring officer.~~
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 monitoring officer may reject a question if it:~~
 - ~~is not about a matter for which the council has powers or duties or which affects Southwark;~~
 - ~~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; or,~~
 - ~~relates to an investigation (whether completed or not) 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 monitoring officer will maintain a record of each question which will be open to public inspection. Rejected questions will include reasons for rejection.~~

Asking the question at the meeting

Comment [IM8]:
Revised title so consistent with deputations title.

Deleted: Procedures at executive meetings for public questions

Deleted: enter

Deleted: in a book

Comment [PT9]: Again, to just reflect most questions emailed and this amendment would also cover hand written questions.

~~6. The leader will invite the questioner to put the question to the member named in the notice.~~

Supplemental question

~~7. Any supplemental question will be at the discretion of the chair.~~

Written answers

~~8. 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.~~

Late or urgent questions

~~9. To preserve the ability for public questions to take place in connection with late or urgent items added to the executive agenda after the normal deadlines for such questions, the leader or in his/her absence the deputy leader shall at the meeting have the discretion to decide whether or not accept a late and urgent public question.~~

3. HOW INDIVIDUAL EXECUTIVE MEMBER DECISION MAKING IS CONDUCTED

3.1 Who takes the decision

The individual executive member who is responsible for the portfolio area or to whom the decision is delegated shall take the decision, except in the following circumstances:

1. The leader, or in his/her absence, deputy leader may take the decision if the relevant individual executive member is unavailable.
2. The relevant individual executive member may indicate that they wish the decision to be referred to a meeting of the full executive.
3. The leader or the chief executive may direct that the decision be reserved to a meeting of the full executive.
4. Where an individual executive member has a personal and prejudicial interest in the decision the matter shall be referred to the full executive.
5. Where the decision affects more than one portfolio or is a crosscutting issue the matter shall be referred to the full executive.

3.2 Who may inspect documents

All reports for key individual executive member decisions shall be available for public inspection five clear working days prior to the decision, subject to the access to information rules in part 4 of this constitution.

3.3 Business

The relevant individual executive member shall consider a report setting out the recommendation, the justification for the decision, any options to be considered, details of the consultation and any representations received.

A decision sheet shall be sent to the individual executive member with the report. This will state the earliest date when the decision-taker can take the decision.

The decision-taker can discuss the report with relevant officers if required.

3.4 Consultation/representations

All reports to the individual executive member will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration. Any representations received must be forwarded to the decision maker for consideration.

Where a ward member submits representations, the relevant individual executive member should discuss the matter with the councillor prior to taking the decision.

3.5 Formal records to be maintained

The decision maker must complete and sign a decision sheet for each decision. The decision sheet has sections to be filled in giving the decision, date of the decision, reason for the decision, alternatives considered and any representations received by the individual decision maker.

All completed decision sheets must be forwarded to the monitoring officer. Copies of all reports and decision sheets are to be maintained by the monitoring officer.

3.6 Non-key decisions relating to contract standing orders

Rule 18 of the overview & scrutiny procedure rules in part 4 of this constitution will not apply to non-key decisions relating to contract standing orders.

3.7 All other decisions

All other decisions delegated to an individual in accordance with rule 1.1 above, will be subject to rule 18 of the overview & scrutiny procedure rules. The monitoring officer or his/her representative will circulate the decision to all members in accordance with the scrutiny call-in process (see paragraph 18 of the overview & scrutiny procedure rules).

4. HOW EXECUTIVE COMMITTEES TAKE DECISIONS

4.1 Major Projects Board

The major projects board will adopt the executive procedure rules, except Rule 2.3 (a), Rule 2.6(d) and Rule 2.10.

4.2 Membership

The membership of the major projects board shall comprise the leader together with four other executive members of the council. The leader shall appoint the vice-chair.

Comment [PT10]: Included these clauses are currently set out in part 3, with the exception of the quorum which is set out in executive procedure rule 2.3 (b). Cross referencing in clause 4.1 updated in line with other changes above.

APPENDIX 9

Overview and scrutiny procedure rules

1. Arrangements for the overview and scrutiny committee and sub-committees

- 1.1 The council will appoint an ~~coordinating~~ overview & scrutiny committee. The overview & scrutiny committee will appoint five ~~themed~~ scrutiny sub-committees and determine their ~~themes and specific~~ terms of reference.
- 1.2 The overview & scrutiny committee and its sub-committees may ~~from time to time~~ appoint ~~ad-hoc~~ informal member working groups to undertake specific tasks. Whilst such ~~informal~~ bodies cannot substitute for the scrutiny committees, or exercise the powers associated with scrutiny (which are the preserve of the scrutiny committees) they can contribute to or inform the scrutiny process.
- 1.3 ~~The number of reserve member seats on scrutiny sub-committees that each political group is entitled to nominate is equal to one fewer than the number of seats each group holds on the sub-committee, subject to a minimum of one. [Moved to para 2.5]~~

2. Membership of overview & scrutiny committees and its sub-committees

- ~~2.1 The council will have a coordinating overview & scrutiny committee, which will have the terms of reference set out in 3.1 below.~~
- 2.1 All councillors except members of the executive may be members of the overview & scrutiny committee and sub-committees. However, no member may be involved in scrutinising a decision in which he or she has been directly involved. [Previously at para 5]
- 2.2 The overview & scrutiny committee will consist of:
- A chair, appointed by ~~the council~~ assembly;
 - A vice-chair, appointed by ~~the council~~ assembly;
 - The chairs of the five scrutiny sub-committees, provided that the proportionality rules are not compromised and provided that each political group is permitted to nominate non-executive members should this be necessary to maintain proportionality; and,
 - Education representatives as set out at paragraph 7.
- 2.3 ~~The council can consider appointing co-opted members.~~ [Contained within para 3.1]
- 2.4 Overview & scrutiny committee will appoint the chairs, vice-chairs and remaining members of the scrutiny sub-committees, in accordance with the statutory rules relating to proportionality. [Previously at para 10]

2.5 Each political group is entitled to nominate reserve members to overview & scrutiny committee and its sub-committees. The number of reserve member seats that each political group is entitled to nominate is equal to one fewer than the number of seats each group holds, subject to a minimum of one.
[Previously at para 1.3]

3. **Co-optees [**

[Previously at para 6]

3.1 Overview & scrutiny committee may ~~and sub-committees shall be entitled to~~ recommend to council assembly the appointment of a number of people as non-voting co-optees. The sub-committees may recommend to overview & scrutiny committee the appointment of non-voting co-optees on the sub-committees.

4. **Education representatives**

[Previously at para 7]

4.1 Overview & scrutiny committee and any sub-committee dealing with education functions shall include in its membership the following voting representatives:

- (a) one Church of England diocese representative;
- (b) one Roman Catholic diocese representative; and,
- (c) two duly-elected parent governor representatives

4.2 Overview & scrutiny committee and any sub-committee dealing with education functions may also contain the following co-opted, non-voting members:

- (a) Up to three representatives of other faiths or denominations, of which at least two should be from non-Christian faiths; and,
- (b) Up to two co-opted non-voting representatives of community groups.

4.3 If the committee/sub-committee deals with any matters outside education functions, the representatives outlined in 4.1 above shall not vote on these matters, though they may stay in the meeting and, with the discretion of the chair, speak.

4.4 Education representatives may only sign a call-in request when the matter called-in relates to an education function.

5. **Terms of reference of the overview & scrutiny committee**

5.1 The terms of reference of the ~~co-ordinating~~ overview & scrutiny committee will be:

- (a) To appoint five sub-committees;
- (b) To agree the committee's annual work programme and to approve the programmes of the sub-committees ~~approve an annual overview & scrutiny work programme, including the programme of the sub-committees, to ensure that there is efficient use of the sub-committees' time, and that the potential for duplication of effort is minimised;~~
- (c) ~~To manage scrutiny of the council's budget and policy framework;~~

- (d) ~~Where matters fall within the remit of more than one sub-committee, to determine which of them will assume responsibility for any particular issue, and to resolve any issues of dispute between sub-committees; [Contained in para 7 below]~~
- (e) To receive consider requests from the executive and/or council assembly and community councils for scrutiny reviews ~~reports from sub-committees and to allocate them if appropriate to one or more sub-committees;~~
- (f) To exercise the right to call-in, for reconsideration, executive decisions made but not yet implemented ~~by the executive;~~
- (g) To comment on scrutiny reports that propose policy change or that have resource implications;
- (h) ~~To put in place and maintain a system to ensure that referrals from scrutiny to the executive, either by way of report or for reconsideration, are managed efficiently;~~
- (i) To arrange for relevant functions in respect of health scrutiny to be exercised by an overview & scrutiny committee of another local authority where the council considers that another local authority would be better placed to undertake those relevant functions, and that local authority agrees to exercise those functions;
- (j) If appropriate, to appoint a joint overview & scrutiny committee with two or more local authorities and arrange for the relevant functions of those authorities to be exercised by the joint committee;
- (k) To periodically review overview & scrutiny procedures to ensure that the function is operating effectively;
- (l) To report annually to council assembly on the previous year's scrutiny activity;
- (m) To determine major funding requests from sub-committees in respect of particular reviews;
- ~~(n) To scrutinise matters in respect of human resources and the council's role as an employer and corporate practice generally;~~
- ~~(o) To scrutinise matters relating to customer access issues including: e-government, information technology and communications; and,~~
- (p) ~~To scrutinise matters in respect of the council's equalities and diversity programmes.~~
- (q) To scrutinise matters in respect of:
- the council's policy and budget framework;
 - human resources and the council's role as an employer and corporate practice generally;
 - customer access issues including: e-government, information technology and communications; and
 - the council's equalities and diversity programmes

6. General terms of reference of all scrutiny committees/ sub-committees

6.1 Within their terms of reference, all scrutiny committees/sub-committees will:

- (a) Produce a one year rolling work programme, which will be approved by the ~~coordinating~~ overview & scrutiny committee;
- (b) Review and scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions;
- (c) Review and scrutinise the decisions made by and performance of the executive and council officers both in relation to individual decisions and over time in areas covered by its terms of reference;

- (d) Review and scrutinise the performance of the council in relation to its policy objectives, performance targets and/or particular service areas;
- (e) Question members of the executive and officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects and about their views on issues and proposals affecting the area;
- (f) Assist council assembly and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (g) Make reports and recommendations to the executive and or council assembly arising from the outcome of the scrutiny process ~~or refer entire reports produced as a result of the scrutiny process to be debated and noted at council assembly;~~
- (h) Consider any matter affecting the area or its inhabitants;
- (i) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- (j) Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the scrutiny committee/~~sub-committee~~ and local people about their activities and performance;
- (k) Conduct research, community and other consultation in the analysis of policy issues and possible options;
- (l) Question and gather evidence from any other person (with their consent);
- (m) Consider and implement mechanisms to encourage and enhance community participation in the scrutiny process and in the development of policy options; and,
- (n) Conclude inquiries promptly and normally within six months.

7. Matters within the remit of more than one scrutiny sub-committee
[Moved from para 23 and OSC terms of reference]

7.1 Where a matter for consideration by a scrutiny sub-committee also falls (whether in whole or in part) within the remit of one or more other scrutiny sub-committee(s), then the sub-committee conducting the review shall, either:

- invite the chair of the other sub-committee (or his/her nominee) to attend meetings when the matter is being reviewed; or,
- invite the other sub-committee to comment on findings prior to submitting its report to the executive/council assembly.

7.2 If necessary, overview & scrutiny committee will determine which sub-committee will assume responsibility for any particular issue and resolve any issues of dispute between sub-committees.

8. Policy review and development [Moved from para 14]

8.1 The executive is required to make arrangements for consultation in respect of any proposals to the council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework. The role of the overview & scrutiny committee and its sub-committees in relation to consultation ~~the development of the council's budget and policy framework~~ is set out in detail in the budget and policy framework procedure rules.

8.2 In relation to council policy, the overview & scrutiny committee/sub-committees may make proposals to the executive for developments in so far as they relate to matters within their terms of reference.

~~5. **Members entitled to sit on the coordinating overview & scrutiny committee and sub-committees** [Moved to para 2.1]~~

~~5.1 All councillors except members of the executive may be members of the overview & scrutiny committee and sub-committees. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.~~

~~6. **Co-optees** [Moved to para 3]~~

~~6.1 Overview & scrutiny committee and sub-committees shall be entitled to recommend to council assembly the appointment of a number of people as non-voting co-optees.~~

~~7. **Education representatives** [Moved to para 4]~~

~~7.1 Overview & scrutiny committee and any sub-committee dealing with education functions shall include in its membership the following voting representatives:~~

- ~~(a) one Church of England diocese representative;~~
- ~~(b) one Roman Catholic diocese representative; and,~~
- ~~(c) two duly-elected parent governor representatives~~

~~7.2 Overview & scrutiny committee and any sub-committee dealing with education functions may also contain the following co-opted, non-voting members:~~

- ~~(a) Up to three representatives of other faiths or denominations, of which at least two should be from non-Christian faiths; and,~~
- ~~(b) Up to two co-opted non-voting representatives of community groups.~~

~~7.3 If the committee/sub-committee deals with any matters outside education functions, the representatives outlined in 7.1 above shall not vote on these matters, though they may stay in the meeting and, with the discretion of the chair, speak.~~

~~7.4 Education representatives may only sign a call-in request when the matter called-in relates to an education function.~~

~~9. **Meetings of the overview & scrutiny committee and its sub-committees**~~

~~9.1 There shall be at least eight ordinary meetings of the coordinating overview & scrutiny committee in each year. In addition, extraordinary meetings may be called by the chair of the committee, by two-thirds of the committee's voting membership or by the proper officer if he or she considers it necessary or appropriate.~~

~~9.2 The chair of the committee may also cancel a meeting for lack of business, or reschedule a meeting, having first consulted with the designated representatives of all political groups recognised by the council.~~

9.3 The ~~themed~~ sub-committees shall determine their own arrangements for meetings.

9.4 A schedule of meetings will be published at the beginning of each municipal year.

10. Quorum

10.1 The quorum for the ~~coordinating~~ overview & scrutiny committee and its sub-committees shall normally be 25% of the voting membership of the relevant committee/sub-committee but no fewer than two.

11. Prohibition of party whip over voting on overview & scrutiny committee/sub-committees [Moved from para 21]

11.1 The party whip does not apply to meetings of overview & scrutiny committees or sub-committees.

11.2 The expression "party whip" is taken to mean: "Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner."

~~**10. Chairs of overview & scrutiny committee and its sub-committees [Contained within para 2]**~~

~~10.1 Council assembly will appoint the chair, the vice chair, and remaining members of the coordinating overview & scrutiny committee, in accordance with the statutory rules relating to proportionality.~~

~~10.2 Overview & scrutiny committee will appoint the chairs, vice chairs and remaining members of the other scrutiny committees, in accordance with the statutory rules relating to proportionality.~~

12. Procedure at overview & scrutiny committee/sub-committee meetings [Moved from para 22] [Note – this para could be deleted altogether]

12.1 The overview & scrutiny committee and its sub-committees shall consider the following business (with the exception of (3) which only applies to overview & scrutiny committee):

- (1) Minutes of the last meeting;
- (2) Declarations of interest;
- (3) Consideration of any matter referred to the committee for a decision in relation to call-in of a decision;
- (4) Responses of the executive to reports of the committee; and,
- (5) The business otherwise set out on the agenda for the meeting.

13. Formal records to be maintained [Moved from para 12]

13.1 No meeting of overview & scrutiny committee or any of its sub-committees shall commence or conduct business unless the monitoring officer or their representative is present. All meetings are to be clerked by a representative

of the monitoring officer, with minutes to be produced including details of members attending and details of decisions taken. Copies of all agendas and minutes are to be maintained by the monitoring officer.

14. Work programmes

14.1 Each of the scrutiny committees will develop an annual work programme.

14.2 The overview & scrutiny committee will approve and review the individual work programmes of the sub-committees.

14.3 Five members of the council may request the overview & scrutiny committee to consider an individual addition or subtraction to the work programme of a sub-committee.

~~11.1 Each of the themed sub-committees will, subject to the coordinating overview & scrutiny committee, develop an annual work programme; these will be one-year rolling programmes. The coordinating overview & scrutiny committee will approve individual work programmes and will review the work programmes of the themed sub-committees annually. It will only consider individual additions or subtractions to the work programmes of themed sub-committees if requested to do so by any five members of the council. [Clarified at 14.1-14.3 above]~~

~~12. Formal records to be maintained [Now at para 11]~~

~~12.1 No meeting of council assembly, the executive or a committee or sub-committee shall commence or conduct business unless the monitoring officer or her/his representative is present. All meetings are to be clerked by a representative of the monitoring officer, with minutes to be produced including details of members attending each meetings and details of decisions taken. Copies of all agendas and minutes are to be maintained by the monitoring officer.~~

15. Agenda items

15.1 Any member of the overview & scrutiny committee or a sub-committee shall be entitled to give notice to the proper officer that he/she wishes an item relevant to the functions of the committee/sub-committee of which they are a member to be included on the agenda for the next available meeting. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.

15.2 Any two members of the council who are not members of the overview & scrutiny committee or a sub-committee may give written notice to the proper officer that they wish an item to be included on the agenda of that committee/sub-committee. If the proper officer receives such a notification, then he/she will include the item on the first available agenda of the committee/sub-committee for consideration.

16. Overview and scrutiny budget [Moved from paras 14.3 and 14.4]

16.1 Within the agreed budget for overview and scrutiny, the overview & scrutiny committee/sub-committees may:

- hold enquiries and investigate the available options for future direction in policy development;
- appoint advisers and assessors to assist them in this process;
- go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations;
- ask witnesses to attend to address them on any matter under consideration; and,
- pay any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

16.2 The overview & scrutiny committee will have responsibility for monitoring the budget for additional scrutiny research and determining funding requests from its sub-committees in respect of particular reviews.

15. Policy review and development

~~15.1 The role of the overview & scrutiny committee and its sub-committees in relation to the development of the council's budget and policy framework is set out in detail in the budget and policy framework procedure rules. [Moved to para 7]~~

~~15.2 In relation to council policy, the overview & scrutiny committee/sub-committees may make proposals to the executive for developments in so far as they relate to matters within their terms of reference. [Moved to para 7]~~

~~14.3 Within the agreed budget for scrutiny, the overview & scrutiny committee/sub-committees may: [Moved to para 15 above]~~

- ~~• hold enquiries and investigate the available options for future direction in policy development;~~
- ~~• appoint advisers and assessors to assist them in this process;~~
- ~~• go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations;~~
- ~~• ask witnesses to attend to address them on any matter under consideration; and,~~
- ~~• pay any advisers, assessors and witnesses a reasonable fee and expenses for doing so.~~

~~14.4 The coordinating overview & scrutiny committee will have responsibility for monitoring the budget for additional scrutiny research and determining funding requests from its sub-committees in respect of particular reviews.~~

17. Members and officers giving account [Moved from para 16]

17.1 Overview & scrutiny committee or a sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions. ~~As well as reviewing documentation,~~ In fulfilling the scrutiny role, a committee may require any member of the executive, the head of paid service and/or any senior officer to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;

- (b) the extent to which the actions taken implement council policy; and/or,
- (c) their performance.

and it is the duty of those persons to attend if so required.

17.2 Where any member or officer is required to attend a scrutiny committee/sub-committee under this provision, the chair of the committee/sub-committee will inform the proper officer. The proper officer shall inform the member or officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account, the specific area of inquiry and whether any papers are required to be produced for the committee/sub-committee. ~~Where the account to be given to the committee/sub-committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.~~

17.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the proper officer in consultation with the committee/sub-committee and the member or officer shall arrange an alternative date for attendance.

18. Attendance by others and public attendance [18.1 and 18.2 moved from paras 17.1 and 22.2 below]

18.1 A scrutiny committee may invite people other than those people referred to in paragraph 17 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Attendance by these people is optional.

18.2 Where people attend to give evidence as part of an investigation, meetings are to be conducted in accordance with the following principles:

- (1) That the investigation be conducted fairly and all members of the committee/sub-committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (2) That those assisting the meeting by giving evidence be treated with respect and courtesy; and,
- (3) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

18.3 Members of the public may attend open meetings of scrutiny committees and request to speak.

19. Reports from the overview & scrutiny committee and its sub-committees

19.1 Once it has formed recommendations on proposals for development, the overview & scrutiny committee or a sub-committee will prepare a formal report and submit it to the proper officer for consideration by the executive. The committee/sub-committee will also report to council assembly as appropriate (in respect of the budget setting process, relevant scrutiny reports should be forwarded with executive recommendations to council assembly).

19.2 If the overview & scrutiny committee or a sub-committee cannot agree on one single final report, then any member of the committee/sub-committee may

prepare a minority report to be submitted for consideration by the executive or council assembly with the majority report.

- 19.3 The executive shall consider and provide a written response to a scrutiny committee's/sub-committee's report within two months.
- 19.4 Management of the flow of reports to the executive will be the responsibility of the overview & scrutiny committee. Reports that propose policy change or that have resource implications (as opposed to comments on performance) are formally routed via the overview & scrutiny committee so that it can add its own comments.

16. ~~Members and officers giving account~~ [Moved to para 17 above]

~~16.1 Overview & scrutiny committee or a sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the executive, the head of paid service and/or any senior officer to attend before it to explain in relation to matters within their remit:~~

- ~~(d) any particular decision or series of decisions;~~
- ~~(e) the extent to which the actions taken implement council policy; and/or,~~
- ~~(f) their performance.~~

~~and it is the duty of those persons to attend if so required.~~

~~16.2 Where any member or officer is required to attend a scrutiny committee/sub-committee under this provision, the chair of the committee/sub-committee will inform the proper officer. The proper officer shall inform the member or officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account, the specific area of inquiry and whether any papers are required to be produced for the committee/sub-committee. Where the account to be given to the committee/sub-committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.~~

~~16.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the proper officer in consultation with the committee/sub-committee and the member or officer shall arrange an alternative date for attendance.~~

17. ~~Attendance by others~~ [Moved to para 18 above]

~~17.1 A scrutiny committee/sub-committee may invite people other than those people referred to in paragraph 16 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Attendance by these people is optional.~~

20. Call-in

- 20.1 The overview & scrutiny committee can “call-in” an executive decision which has been made ~~by the executive~~ but not yet implemented. This enables the overview & scrutiny committee to consider whether the decision is appropriate. The committee may recommend that the decision maker executive reconsider the decision.
- 20.2 Requests for call-in should normally only be made if there is evidence that the decision maker executive did not take the decision in accordance with the principles of decision making as set out in the constitution:
- (a) Proportionality (i.e. the action must be proportionate to the outcome).
 - (b) Due consultation and the taking of professional advice from officers.
 - (c) Respect for human rights.
 - (d) Presumption in favour of openness.
 - (e) Clarity of aims and desired outcomes.
 - (f) The link between strategy and implementation must be maintained.
 - (g) Decision making generally, ~~whether by individual officers, individual executive members or the executive collectively,~~ should have reference to the policy framework and be in accordance with the budget.

21. Procedure to call-in a decision

- ~~18.3 A valid request for call-in must contain the requisite number of signatures, give reasons for the call-in and set out any alternative course of action proposed. In particular, the request must state whether or not the members believe that the decision is outside the policy or budget framework. [Moved to final para below]~~
- 21.1 When a decision is made by the executive, an individual member of the executive or a committee of the executive, or an executive decision is taken by a community council, or a key decision is made by an officer with delegated authority from the executive, or under joint arrangements, the decision shall be published, ~~including where possible by electronic means, and shall be available at the main offices of the council~~ normally within two clear working days of being made. All members will be sent copies of the records of all such decisions within the same time scale, by the person responsible for publishing the decision.
- 21.2 That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless the overview & scrutiny committee objects to it and calls it in.
- 21.3 During that period, the proper officer shall call-in a decision for scrutiny if so requested by:

The chair or vice-chair of the overview & scrutiny committee, plus three members of the committee, including education co-optees for the purpose of education decisions only.

- 21.4 A member serving on a community council (who is also a member of the overview & scrutiny committee) who participates in taking an executive decision shall not sign a call-in request on the same decision (thus avoiding any conflict of interests).
- 21.5 In the event that the chair or vice-chair of overview & scrutiny decides not to support a call-in request received within deadline and signed by three members of the committee, they are required to set out their reasons in writing, and this letter will be circulated to members and other interested stakeholders.
- 21.6 A valid request for call-in must contain the requisite number of signatures and give reasons for the call-in ~~and set out any alternative course of action proposed~~. In particular, the request must state whether or not the members believe that the decision is outside the policy or budget framework. [Moved from first para]

22. Decisions not subject to call-in [This para simplifies old para 20]

22.1 The following categories of urgent decision are not subject to call-in:

- Recommendations on the budget and policy framework
- Decisions for urgent implementation (Rule 17.2, access to information procedure rules)
- Urgent decisions outside the budget or policy framework (Rule 4, budget and policy framework procedure rules)
- Non-key decisions relating to contract standing orders.

[This clause has been updated to make it more comprehensive]

22.2 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to council assembly with proposals for review if necessary.

23. Procedure following call-in

23.1 If the head of overview & scrutiny 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 clear working day of receipt of the request. In the event of dispute, the decision of the monitoring officer shall be final.

23.2 Following call-in of a decision, the head of overview & scrutiny 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 head of overview & scrutiny shall also notify the monitoring officer or finance

director in order for a report to be prepared for the overview & scrutiny committee.

23.3 Within five clear working days of the call-in request, and where possible in consultation with the chair of the overview & scrutiny committee, the head of overview & scrutiny shall either:

- (1) refer the called-in decision to the next meeting of the overview & scrutiny committee, if that meeting is within ten 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 ten 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 (1) or (2) above, the head of overview & scrutiny will arrange an extraordinary meeting of the overview & scrutiny committee to consider the matter outside the normal timetable, unless in the view of the monitoring officer and/or the finance director, 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.

23.4 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 15 clear working days after the decision was published, whichever is the earlier, unless the provisions of 23.3(3) are applied.

24. Call-in meeting and action required of decision-makers

24.1 On meeting, the overview & scrutiny 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.

24.2 If, having considered the decision and all relevant advice, the overview & scrutiny committee is still concerned about it, then it may either:

- (1) refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns; or,
- (2) refer the matter to council assembly if the decision is deemed to be outside the policy and budget framework.

24.3 If referred to the decision maker, with the exception of community councils they shall then reconsider their decision within a further seven clear working days. If referred back to a community council, reconsideration will wait until the next scheduled meeting of the community council, unless the monitoring officer 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 seven 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.

- 24.4 If referred to council assembly, the decision is further suspended pending a meeting of council assembly, which must take place within seven clear working days of the decision to refer to council. Within this time, the decision maker 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.
- 24.5 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.
- 24.6 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 decision maker executive.
- 24.7 Where the council assembly accepts that the decision is within the budgetary and policy framework it may either:
- (1) 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,
 - (2) 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. The decision-maker will reconsider the decision within five clear working days and ~~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 overview & scrutiny committee. Where the decision was taken by the executive, a meeting will be convened to reconsider within five working days of the council assembly request. Where the decision was made by an individual, the individual will reconsider within five working days of the council assembly request.~~
- 24.8 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:
- (1) 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

- (2) require the decision maker ~~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 five working days to reconsider/amend the decision and this will be reported to the overview & scrutiny committee.

20. ~~Urgent decisions – definitions of urgency and steps that must be followed~~ [Simplified at new para 22 above]

~~20.1~~ There are four categories of urgent decisions:

- (1) ~~**General exceptions**~~ – (Rule 16, access to information procedure rules) If a matter which is likely to be a key decision has not been included in the forward plan, then, subject to special urgency, the decision may still be taken if:

- (a) ~~the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;~~
- (b) ~~the proper officer has informed the chair of the overview & scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;~~
- (c) ~~the proper officer has made copies of that notice available to the public at the offices of the council; and,~~
- (d) ~~at least five clear days have elapsed since the proper officer complied with (a) and (b).~~

~~————— **This decision will be subject to call-in.**~~

- (2) ~~**Special urgency**~~ – (Rule 17.1, access to information procedure rules) If by virtue of the date by which a decision must be taken under general exception cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of the overview & scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chair of the overview & scrutiny committee, or if the chair is unable to act, then the agreement of the Mayor of the council, or in his/her absence the Deputy Mayor, will suffice.

~~**This decision will be subject to call-in.**~~

- (3) ~~**Decisions for urgent implementation**~~ – (Rule 17.2, access to information procedure rules) These are decisions which have either not previously been included on the forward plan, or have been included but need to be implemented immediately by virtue of the urgency of the actions that need to be taken.

~~————— This decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of~~

~~the chair of the overview & scrutiny committee both that the decision proposed is reasonable in all circumstances and that it should be treated as a matter of urgency. If there is no chair or if the chair is unable to act, then the agreement of the vice-chair, or in his/her absence any two members of the overview & scrutiny committee will suffice. In the situation where both chair and vice-chair are unable to act the whips of the two largest political groups on the overview & scrutiny committee shall nominate one member each.~~

~~————— **This decision will not be subject to call-in.**~~

~~*Note: Any requests for a key decision not to be called in and communicated to the chair of overview & scrutiny committee should be copied to all overview & scrutiny committee members.*~~

~~(4) ——— **Urgent decisions outside the budget or policy framework** – (Rule 4, budget and policy framework procedure rules)~~

~~(a) — The executive, a committee of the executive, an individual member of the executive or officers, or joint arrangements discharging executive functions may take a decision which is contrary to the council's policy framework or contrary to or not wholly in accordance with the budget approved by council assembly if the decision is a matter of urgency. However, the decision may only be taken if:~~

- ~~● — it is not practical to convene a quorate meeting of the council assembly; and the chair of the overview & scrutiny committee agrees that the decision is a matter of urgency.~~

~~————— The reasons why it is not practical to convene a quorate meeting of council assembly and the chair of the overview & scrutiny committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chair the consent of the Mayor, and in the absence of both the Deputy Mayor, will be sufficient.~~

~~(b) Following the decision, the decision taker will provide a full report to the next available council assembly meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.~~

~~————— **This decision will not be subject to call-in**~~

~~20.2 — The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to council with proposals for review if necessary.~~

~~**21. Prohibition of party whip over voting on overview & scrutiny committee/sub-committees** [Moved to para 11]~~

~~21.1 — The party whip does not apply to meetings of overview & scrutiny committees or sub-committees.~~

~~21.2 The expression "party whip" is taken to mean: "Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner."~~

~~22. Procedure at overview & scrutiny committee/sub-committee meetings~~

~~22.1 The overview & scrutiny committee and its sub-committees shall consider the following business (with the exception of (3)) which only applies to overview & scrutiny committee):~~

- ~~(6) Minutes of the last meeting;~~
- ~~(7) Declarations of interest;~~
- ~~(8) Consideration of any matter referred to the committee for a decision in relation to call-in of a decision;~~
- ~~(9) Responses of the executive to reports of the committee; and,~~
- ~~(10) The business otherwise set out on the agenda for the meeting. [Moved to para 12]~~

~~22.2 Where the overview & scrutiny committee/sub-committee conducts investigations (e.g. with a view to policy development), it may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:~~

- ~~(4) That the investigation be conducted fairly and all members of the committee/sub-committee be given the opportunity to ask questions of attendees, and to contribute and speak;~~
- ~~(5) That those assisting the meeting by giving evidence be treated with respect and courtesy; and,~~
- ~~(6) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis. [Moved to para 18]~~

~~22.3 Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the executive and/or council assembly as appropriate and shall make its report and findings public. [Contained within para 19]~~

~~23. Matters within the remit of more than one scrutiny sub-committee~~ [Moved to para 7]

~~23.1 Where a matter for consideration by a themed scrutiny sub-committee also falls (whether in whole or in part) within the remit of one or more other scrutiny sub-committee(s), then the sub-committee conducting the review shall, either:~~

- ~~• invite the chair of the other sub-committee (or his/her nominee) to attend meetings when the matter is being reviewed; or,~~
- ~~• invite the other sub-committee to comment on findings prior to submitting its report to the executive/council assembly.~~

Contract Standing Orders 2008/09

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Definitions

Introduction

The council seeks to achieve value for money and best value when obtaining supplies of goods, services and works.

The Contract Standing Orders (CSOs) set out minimum requirements to be followed. CSOs are governed by section 135 of the Local Government Act 1972 and are the council's rules for contracts. They must always be followed unless the law (European or UK) requires something different.

Further information can be found in the Procurement Guidelines. Officers must always seek advice from Southwark procurement and/or legal services if they have any queries and for all contracts where European law applies or which are Strategic Procurements.

CSOs do not override other parts of the council's constitution. For example, if a decision about a contract is also a "Key Decision", then the requirements set out in the constitution in relation to CSOs and to Key Decisions will have to be met.

There is a Definitions section at the end of these Orders which provides explanations of capitalised words or phrases (e.g. Estimated Contract Value).

1. When do Contract Standing Orders (CSOs) apply?

1.1 Contract Standing Orders apply:

- to any procurement or tendering process or contract entered into by the council for the provision of goods, services and works and to the operation of any concession
- where the council is involved in joint working funded partly or entirely by external funding to the extent that the money passes through the council's accounts
- to all schools maintained by the London Borough of Southwark but subject to the current Southwark Scheme for Financing Schools and the Schools' Contract Standing Orders.

unless an exemption to CSOs is approved (see 4.78 below).

1.2 Contract Standing Orders do not apply:

- to contracts of employment
- to land transactions
- to grants given by the council.

2. General principles

2.1 Compliance with relevant statutory and corporate requirements

There must be compliance with the requirements of:

- a) propriety, including obtaining all necessary approvals;
- b) value for money and best value, through the consideration of all procurement options;
- c) all parts of the council's constitution such as these Contract Standing Orders, the Financial Standing Orders and the protocol on Key Decisions;
- d) EU and domestic legislation, including the "Standstill" Period;
- e) the council's procurement strategy, the Procurement Guidelines and other council policies and procedures;
- f) the Employee Code of Conduct (for officers).

2.2 Consequences of non-compliance

It is a disciplinary offence to

- fail to comply with Contract Standing Orders or
- fail to have regard to the Procurement Guidelines when letting contracts.

Employees have a duty to report breaches of CSOs to an appropriate senior manager and the finance director.

2.3 General principle of contract decision making

The aim of the procurement process is to ensure that each contract is awarded to the most economically advantageous tenderer, who may or may not have submitted the lowest sum offered, and that any decision on a Variation is made on a similar basis so as to ensure that value for money and quality considerations are taken into account. Contracts may only be awarded or a Variation decision made if the expenditure has been included in approved revenue or capital estimates or has been otherwise approved by, or on behalf of, the council.

2.4 Contracts in writing

- 2.4.1 Every contract awarded must be in writing and, wherever practicable, on terms agreed by the council and consistent with any council terms of trading and contain full details of the contract documents and contract terms. All Strategic Procurement contracts and those works contracts whose contract value is in excess of the EU threshold for services/supplies must be executed on behalf of the council under seal as a deed.
- 2.4.2 All other contracts must be signed by at least two authorised officers of the lead contract officer's (LCO's) department.
- 2.4.3 All contracts must wherever practicable be signed or sealed before contract commencement and in accordance with the procedures set out in the Procurement Guidelines.

2.5 Record keeping

Chief officers must ensure that the following records are kept:

- a detailed contract file for each contract, including the Estimated Contract Value;
- all decisions made, reasons for them and actions taken in relation to contracts;
- all reports relating to contracts;
- entries in the council's contract register of all contracts with an Estimated Contract Value of £75,000 or more.

2.6 Lead contract officer

A lead contract officer (LCO) must be identified for each contract. Where no LCO is identified, the LCO will be deemed to be the budget holder of the section from which the contract is funded.

2.7 Authority to act in line with scheme of management

Each officer will act only within the limits of their delegated authority, as set out in their department's scheme of management. The hierarchy of decision makers for procurement decisions is as follows:

- executive/executive committee (highest)
- individual decision maker (IDM)
- finance director, as advised by CCRB
- chief officer, or as delegated through departmental schemes of management.

2.8 Declarations of interest

2.8.1 The following will declare any interests which may affect the contract process:

- a) all staff, whether employed by the council or otherwise, who play a role in any aspect of the tendering process;
- b) all staff listed on a scheme of management or delegation in relation to a contract or procurement issue; and
- c) external consultants and representatives of bodies other than the council (including community representatives) who play a role or whose work gives them influence over or information about any aspect of the contract process.

2.8.2 Chief officers will ensure that staff, consultants and representatives of bodies other than the council (including community representatives) appointed or agreed by them make declarations on appointment, or on any change in circumstances (and annually in the case of staff); and will either certify them as acceptable or take any necessary action in respect of potential conflicts of interest.

2.8.3 Chief officers will keep completed staff declarations on the individual's personnel file; and also maintain a departmental register of declarations indicating the names and grades of all those declaring, and the nature of their declaration; LCOs will keep any consultants' or other bodies' representatives' declarations on the contract file.

2.9 Maintenance of Changes to CSOs

As set out in article 1, the strategic director of legal and democratic services will may make minor changes to maintain the Contract Standing Orders, after consultation with the finance director.

Minor changes are defined as

- typographical/presentational/explanatory changes;
- changes in statutory framework, i.e. references to new or updated legislation;
- changes in titles, names or terminology;
- changes consequential to other constitutional changes already made.

3. Particular types of contract

3.1 Corporate contracts

Where there is a Corporate contract for a service, supply or for works, it should be used to make the relevant purchase. If a lead contract officer believes that the Corporate contract does not meet their requirements they must obtain an exemption (see 4.78) through a Gateway report regardless of the value of the purchase.

3.2 Consortium contracts

The requirements in these Contract Standing Orders for obtaining tenders or quotes shall not apply where the council intends to purchase under a Consortium contract so long as approval to the use of that Consortium contract has been given via a Gateway 1 report.

3.3 Framework/schedule of rates contracts

3.3.1 When a Framework contract or similar type of contract (such as a schedule of rates contract) is entered into, no individual order may be placed which will exceed the EU threshold for services/supplies unless this has been approved by the relevant decision maker appropriate to that contract, whether at the time of the approval of the procurement strategy (Gateway 1 report) or in the approval of the award of the contract (Gateway 2 report) or before the individual order is placed.

3.3.2 Any procurement involving the use of a third party's Framework contract is subject to usual Gateway 1 and 2 procedures (see 4.4 below).

3.4 Health & social care and education Spot contracts

Personal, social or educational services are sometimes provided by the purchasing of these services under Spot contracts. The relevant chief officers will seek to minimise the use of Spot contracts, but where they are to be used for such services:

- a) the requirements in these Contract Standing Orders for obtaining tenders or quotes shall not apply;
- b) the relevant chief officer may award all such Spot contracts; and

- c) the relevant chief officer must provide an annual report to the Corporate Contract Review Board (CCRB) detailing the nature, extent and value of Spot contracts entered into in the previous financial year.

4. Approvals processes

4.1 Overview of procurement process

4.1.1 Having identified a need to purchase goods, services or works which are not covered by an existing contract and having confirmed that they are subject to CSOs (see section 1 above), the main stages of all non-emergency procurements are – in summary –

- a) identify who is the lead contract officer (LCO) – see ~~section~~ 2.6 above;
- b) obtain approval of procurement strategy (Gateway 1 report). This will depend on the Estimated Contract Value and other factors and may require advice from the Departmental and Corporate Contract Review Boards (DCRB and CCRB) – see ~~section~~ 4.4 below;
- c) follow appropriate quote/tender route. This will depend on the Estimated Contract Value and other factors – see ~~section~~ 5 below;
- d) obtain approval to award contract (Gateway 2 report). This will depend on Estimated Contract Value and other factors and may require advice from the DCRBs and CCRB – see ~~section~~ 4.5 below;
- e) ensure that a written contract has been signed (and sealed if necessary) on behalf of the chief officer of the LCO's department in line with constitutional requirements.

For an emergency procurement, see ~~section~~ 4.89 below.

4.1.2 Where there is a need to vary an existing contract, the process to be followed is set out in ~~section~~ 4.6 below.

4.1.3 Where it is proposed to bring a service which was previously externalised back in-house, it is necessary to follow 4.1.1 a) and b) above.

4.2 Gateway and other reports

The procurement process requires approvals via written reports at the following stages:

- a) approval of procurement strategy – Gateway 1 report;
- b) approval of award of the contract – Gateway 2 report;
- c) approval of Variation to contract – written report.

More information can be found in ~~sections~~ 4.4 to 4.6 and the definitions below.

4.3 Supplemental advice from other officers in Gateway and other reports

Where the Estimated Contract Value or, in relation to a Variation, the Contract Value is over the relevant EU threshold or where required elsewhere in the CSOs, any Gateway report or other report containing a contract matter (such as a Variation report) must include legal advice from the director of legal and

democratic services and financial and procurement advice from the finance director or delegated officer(s).

4.4 Decision on procurement strategy – Gateway 1

- 4.4.1 A decision on the procurement strategy to be used on any contract with an Estimated Contract Value of over £75,000 must only be made after consideration of a Gateway 1 report. It is recommended that such a report is also used for contracts with an estimated value of £75,000 or below.
- 4.4.2 The decision on the approval of the procurement strategy is to be taken by the relevant chief officer or under his/her delegated authority in line with the department's scheme of management, except where:
- a) the contract is a Strategic Procurement, the decision must be taken by the executive or executive committee, after taking advice from the CCRB;
 - b) the Estimated Contract Value is above £2 million but below £4 million for services and supplies or above £10 million but below £15 million for works but the contract does not fall into (a) above, the decision must be taken by the relevant individual decision maker, after taking advice from the CCRB;
 - c) the contract is a Corporate contract, but does not fall into (a) or (b) above, the decision must be taken by the finance director, after taking advice from the CCRB;
 - d) the contract will affect the budget of more than one directorate and the Estimated Contract Value is £500,000 or more, but does not fall into (a), (b) or (c) above, the decision must be taken by the finance director, after taking advice from the CCRB;
 - e) the Estimated Contract Value is above the relevant EU threshold but the contract does not fall into (a), (b), (c) or (d) above and the LCO is requesting approval to proceed with a single tenderer or to negotiate with a single provider (and this is permitted by EU legislation), the decision must be taken by the finance director, after taking advice from the CCRB;
 - f) the contract will affect the budget of more than one directorate and the Estimated Contract Value is less than £500,000, the chief officers of all the directorates concerned must agree the decision, after taking advice from relevant DCRBs;
 - g) the Estimated Contract Value is above the relevant EU threshold but the contract does not fall into (a), (b), (c), (d), (e) or (f) above, the decision must be taken by the ~~strategic director~~ chief officer or under his/her delegated authority, after taking advice from his/her DCRB;
 - h) a different requirement must be met as specified elsewhere in the constitution or these CSOs
 - i for the decision to be made by someone else (e.g. pensions, treasury management where decisions are to be made by the finance director); or
 - ii about the decision (e.g. in emergencies where no prior written report is needed – see 4.89 below).
- 4.4.3 Gateway 1 reports should also include any details of procurement proposals that are different from the normal routes, requests for exemptions to these CSOs and requests to delegate powers to award the contract.

4.5 Decision on contract award – Gateway 2

- 4.5.1 A decision to award any contract with an Estimated Contract Value of over £75,000 must only be made after consideration of a Gateway 2 report. It is recommended that such a report is also used for contracts with an estimated value of £75,000 or below. As a minimum, the LCO must keep a written record of decisions and action taken.
- 4.5.2 The decision on the award of a contract is to be taken on the basis of a written report by the relevant chief officer or under his/her delegated authority in line with the department's scheme of management, except where:
- a) the contract is a Strategic Procurement, the decision must be taken by the executive or executive committee, after taking advice from the CCRB;
 - b) the Estimated Contract Value is above £2 million but below £4 million for supplies and services or above £10 million but below £15 million for works but the contract does not fall into (a) above, the decision must be taken by the relevant individual decision maker, after taking advice from the CCRB;
 - c) the contract is a Corporate contract, but does not fall into (a) or (b) above, the decision must be taken by the finance director, after taking advice from the CCRB;
 - d) the contract will affect the budget of more than one directorate, and the Estimated Contract Value is £500,000 or more but does not fall into (a), (b) or (c) above, the decision must be taken by the finance director, after taking advice from the CCRB;
 - e) the contract will affect the budget of more than one directorate and the Estimated Contract Value is less than £500,000, the chief officers of all the directorates concerned must agree the decision, after taking advice from relevant DCRBs;
 - f)
 - i. the Estimated Contract Value is £500,000 or above (for services and supplies contracts) or above the relevant EU threshold (for works contracts) and
 - ii. the contract is to be awarded to a contractor whose bid was more than 15% above the Lowest Bid
 but does not fall into (a), (b), (c) or (d) above the decision must be taken by the finance director, after taking advice from the CCRB;
 - g) the Estimated Contract Value is above the relevant EU threshold but the contract does not fall into (a), (b), (c), (d), (e) or (f) above, the decision must be taken by the relevant ~~strategic director~~ chief officer or under his/her delegated authority, after taking advice from the relevant DCRB;
 - h) a different requirement must be met as specified elsewhere in the constitution or these CSOs
 - i for the decision to be made by someone else (e.g. pensions, treasury management where decisions are to be made by the finance director); or
 - ii about the decision (e.g. in emergencies where no prior written report is needed – see 4.89 below);
 - i) approval has been obtained in line with 4.4.3 above to a different decision process.
- 4.5.3 Report authors should include, as part of the proposed recommendations contained within the Gateway 2 report, details of any possible options to

extend the contract and seek delegated authority for the decision to exercise those options at a future date. Where such a recommendation is not included, even where the contract was awarded prior to the commencement of these CSOs, any decision to exercise an option to extend the contract will be subject to the requirements of 4.6 below.

4.6 Decision to allow Variations during contract term

4.6.1 Any decision to allow a Variation of a contract is to be taken on the basis of a written report by the relevant chief officer or under his/her delegated authority in line with the department's scheme of management, except where:

- a) the Contract Value plus the amount of the proposed Variation and any previous Variations is £500,000 or above (for services and supplies contracts) or above the relevant EU threshold (for works contracts) and the amount of the proposed Variation is more than 15% of the Contract value, the decision must be taken by the finance director, after taking advice from the CCRB; all such decisions will be advised in writing by the finance director to members of the executive;
- b) an additional amount is to be paid in respect of an outstanding sum for works, services or supplies already provided or where an Urgent Payment is required, written confirmation from the director of legal and democratic services that the sums are legally payable must be obtained and the decision to make the payment must be reported in writing to the finance director within five clear working days;
- c) a different requirement must be met as specified elsewhere in the constitution or these CSOs
 - i for the decision to be made by someone else (e.g. pensions, treasury management where decisions are to be made by the finance director); or
 - ii about the decision (e.g. in emergencies where no prior written report is needed – see 4.89 below);
- d) approval has been obtained in line with 4.4.3 above to a different decision process.

4.6.2 Where a decision on a Variation is made in relation to a contract for works, there will also be a deemed variation of the contract of any consultant engaged in relation to that works contract. This only applies where the consultant is engaged on a fixed percentage of the works contract value. The deemed variation of the consultant's contract will be by the same percentage as that applied to the works contract.

4.7 Retrospective approvals

In the event of a contract having been entered into other than in compliance with these CSOs, it may be necessary to seek approvals retrospectively. In such cases, the procedures relating to Gateway 1 and Gateway 2 reports should be followed. Where the decision makers for the Gateway 1 and 2 reports are different, both decisions can be taken by the higher decision maker (see 2.7 above), after consulting with the other decision maker. In addition, a report should also be submitted to the relevant departmental contract review board for information and to the audit and governance committee, setting out the circumstances and manner in which the decision was taken, for the purpose of obtaining guidance to inform future decision making.

4.78 Exemptions

In the event that there appear to be exceptional circumstances which mean that the usual procedures set out in Contract Standing Orders cannot be followed, written approval must be obtained in advance through a Gateway report. The report should set out the exceptional circumstances and explain why usual procedures cannot be followed. Proposed alternative courses of action must still comply with remaining relevant statutory and corporate requirements as set out in 2.1 above.

Examples of circumstances which might amount to an exceptional reason for not following the usual procedures are:

- a) the nature of the market has been investigated and is such that a departure from the CSO requirements is justified;
- b) the contract is one required because of circumstances of extreme urgency which could not reasonably have been foreseen;
- c) the circumstances of the proposed contract are covered by legislative exemptions (whether under EU or domestic law).

The above is not an exclusive list.

4.89 Emergencies

An emergency is a situation where action is needed to prevent a risk of injury to or loss of life, or to the security or structural viability of a property. In the case of an emergency, action necessary can be approved by a chief officer without a prior written Gateway report. Such action shall be limited to dealing with the emergency and it shall be subsequently recorded in a written report to the CCRB.

5. Requirements to obtain tenders or quotes depending on type of contract and levels of contract value

5.1 Contracts less than £5,000

For all contracts where the Estimated Contract Value is less than £5,000, there is no requirement to obtain competitive quotes; the requirement is to ensure value for money and best value and to keep a record of what action has been taken and why. In addition, if the contract is for works or for works-related services, the provider must be obtained from the council's Works Approved List.

5.2 Contracts from £5,000 to ~~£74,999~~ £75,000

For all contracts where the Estimated Contract Value is from £5,000 to ~~£74,999~~ £75,000, there is a requirement to obtain at least three written quotes unless the LCO decides that this will not secure value for money. In such cases, a Gateway 1 report must be completed to explain ~~record must be kept~~ of what alternative action is being taken and why. In addition, if the contract is for works or works-related services, those invited to submit quotes must be selected from the council's Works Approved List unless permission is obtained to do otherwise through a Gateway 1 report; such a report must

include supplementary procurement advice from the finance director or his delegated officers, without which the approval cannot be granted.

5.3 Works contracts and works-related services above £75,000 but below EU threshold

For all such contracts where the Estimated Contract Value is above £75,000 but below the relevant EU threshold, there is a requirement to take all reasonable steps to obtain at least five tenders. Those invited to submit tenders must be selected from the council's Works Approved List unless permission is obtained to do otherwise through a Gateway 1 report; such a report must include supplementary procurement advice from the finance director or his delegated officers, without which the approval cannot be granted.

5.4 All other contracts not falling within 5.1 to 5.3 above

For all contracts not covered by 5.1 to 5.3 above, there is a requirement to take all reasonable steps to obtain at least five tenders following a publicly advertised competitive tendering process, as set out in these CSOs and in line with the Procurement Guidelines.

6. Tender procedure

6.1 Officers must seek advice from Southwark procurement before using any e-procurement processes in order to ensure compliance with relevant legislative requirements. All other tender processes must comply with the following requirements.

~~6.2 Exceptions to the requirements set out in this CSO will only be made in exceptional circumstances and must be authorised by the relevant chief officer in writing following consultation with the finance director, CCRB or DCRB as appropriate to the contract.~~

6.32 Tenderers must be told that their tenders may only be considered if they follow the requirements below:

- a) The tender must be returned in a plain envelope or parcel which is marked clearly "Tender" followed by the subject of the contract;
- b) the envelope or parcel must not show the identity of the tenderer in any way; and
- c) the envelope or parcel must be delivered to the place and by the time stated in the tender invitation.

6.43 All tenders will be opened at the same time and place, after the closing date and time for receipt stated in the tender documents.

6.54 Tenders where the Estimated Contract Value is £500,000 or more must be returned to the director of legal and democratic services and shall be opened by his/her authorised representative. Where the Estimated Contract Value is less than £500,000, tenders may be returned to the chief officer or their authorised representative who will arrange for tender opening in the presence of at least two officers, one of whom will be the witness and will not have been directly involved in that particular contract.

- 6.65 A tender received by the council after the time and date specified in the invitation shall not be accepted or considered.
- 6.7 Exceptions to the requirements set out in 6.1 to 6.5 above will only be made in exceptional circumstances and must be authorised by the relevant chief officer in writing following consultation with the finance director, CCRB or DCRB as appropriate to the contract.

Definitions

Consortium contract	a contract procured usually following a competitive process by a public sector agency other than the council under which the council is permitted to purchase, such as those provided by the Office of Government Commerce, e.g. Catalyst (which replaces GCAT and S-CAT), or the London Contracts and Supplies Group
Contract register	a register of contracts held by Southwark procurement <u>legal services</u>
Contract Value	means the total value of a contract as awarded (which may be different from the Estimated Contract Value), net of VAT, or if there is no fixed figure, the LCO's best estimate of the likely amount to be spent over the period of the contract, taking into account the prices accepted
Corporate contract	a contract arranged by Southwark procurement or another department that should be used by the whole council for all goods, works or services specified in it
CCRB	Corporate Contract Review Board – panel of officers operating under terms of reference of CCRB. Its role includes considering reports from DCRBs and advising the executive, individual decision makers and the finance director on contract decisions
DCRB	Departmental Contract Review Board – panel of officers operating under terms of reference of DCRB. Its role includes agreeing reports for consideration by the CCRB and advising the chief officer on contract decisions where the Estimated Contract Value is above the relevant EU threshold
Estimated Contract Value	is the total value of a proposed contract <u>including options to extend it</u> (as estimated by the LCO on the basis of all relevant factors) net of VAT <u>calculated for the proposed contract period, or, if for an undetermined period,</u> in accordance with the valuation rules contained in European Regulations, whether or not the Regulations apply to the particular contract. This may be different from the lifetime cost of the contract, which may need to be considered for other purposes (see Procurement Guidelines). Note that a contract may not be artificially packaged into two or more separate contracts (nor a valuation method selected) with the intention of avoiding the application of these CSOs. Chief officers are responsible for considering aggregation within their department to ensure delivery of best value within CSO requirements
EU Regulations	means the Public Contracts Regulations 2006 or any amendment to or successor to those Regulations

EU threshold	means the current contract value at which the requirements of the EU Regulations apply
Framework contract	a framework contract is an agreement between the council and one or more contractors, the purpose of which is to establish the terms governing jobs to be awarded during the period of the framework agreement, in particular with regard to price. Usually, the council is under no obligation to offer work but the provider is obliged to perform work if the council asks
Gateway report	a written report in substantially the same terms as those contained in the relevant template which can be found on the Source
Key Decision	<p>there are two types of key decision <u>definitions of Key Decisions are contained in the Protocol on Key Decisions in appendix 1 of the Access to information procedure rules section of the constitution. Examples of Key Decisions for procurement purposes are:</u></p> <ul style="list-style-type: none"> - those which are subject to a general financial threshold (£500,000 or more – note that in relation to awarding contracts, this is a per annum value not a contract term value); - those which have a significant impact on communities - <u>Gateway 1 approvals in respect of a Strategic Procurement</u> <p>More information can be found in the protocol on Key Decisions in the constitution</p>
Lead contract officer (LCO)	the lead contract officer (LCO) for each contract is the officer who has a duty to ensure that the obligations set out in these CSOs are complied with
Lowest Bid	The lowest price offered by tender or quotation which meets the specification and other requirements of the contract
Procurement Guidelines	a document issued and maintained by Southwark procurement containing best practice information on procurement matters
Spot contract	a one-off contract under which services are provided to meet an individual service user’s needs for personal, social or educational provision
“Standstill” Period	this is the “standstill” period required by EU regulations between notification of an award decision and when the contract comes into existence, in order to allow unsuccessful parties time to challenge the award decision. Most contracts are covered by this requirement; a few are not (Part B services – such as some personal services in relation to education, social care and health). Seek advice on whether your contract

is about a Part B service and if you are unclear about the application of the Standstill Period

Strategic Procurement	means procurement where one or more of the following apply: <ol style="list-style-type: none">(1) Estimated Contract Value over £4 million for non-works and £15 million for works;(2) Significant change to previous service;(3) Possible externalisation or change in manner of delivery;(4) Significant transfer of assets or staff;(5) Political sensitivity; and(6) Carrying a high level of risk
Tender value	means the value of the contract at the time of the award of the contract or, if there is no fixed value, the LCO's best estimate of the likely spend on the contract during the contract period
Urgent Payment	means one where delay would lead to significant demonstrable financial loss to the council (and where no breach of EU or domestic requirements would be occasioned)
Variation	means a decision to extend the length, cost or change the scope of a contract which was not anticipated or allowed for in the contract terms. This might, for example, be a change in duration, i.e. an increase in the duration of the contract that was not anticipated or allowed for when the contract was awarded; or an increase in volume, i.e. an increase in the volume usage of the contract that was not anticipated when the contract was awarded
Works Approved List	a list of providers of works and works-related consultancy services maintained by Southwark procurement, which have been appraised to meet minimum criteria in respect of their financial standing, level of insurance held, health and safety policies and procedures, and equal opportunities policies and procedures. (For further information about the use of Approved Lists, see the Procurement Guidelines or seek advice from Southwark procurement)

Financial Standing Orders ~~2007/08~~ 2008/09

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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.

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 elsewhere in the constitution.

As set out in article 1, the finance director may make minor changes (see Glossary) to the financial standing orders, after consultation with the strategic director of legal and democratic services.

1. Financial administration

a) Finance director

- i) The finance director 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 as amended by the Accounts and Audit (Amendment) (England) Regulations 2006, 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 finance director, except any matters which are delegated to other officers or reserved to committees of council members, the executive, or to the council itself. The finance director 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 finance director. 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 finance director 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 finance director 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 Money section of the Source (the council's business managers' handbook) for the purposes of these financial standing orders is the council financial regulations.

e) Partnerships

Financial governance arrangements in respect of partnerships must meet the requirements of the finance director and his written approval must be obtained before any partnership arrangements are entered into.

f) Treasury management

All treasury management decisions are the responsibility of the finance director, as set out in paragraph 11 below.

g) 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.

h) Companies in which the council has an interest

The finance director and strategic director of legal and democratic services must be consulted on all proposals relating to the establishment of companies in which the council is to have an interest.

i) 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. However, any proposal to an individual decision maker to approve an amendment to fees or charges at a rate below that specified in the medium term financial strategy will require the prior written approval of the finance director. Within the fees and charges set, strategic directors are responsible for maximising income for the council.~~

j) 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.~~

i) Internal audit

(i) The finance director 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 audit and governance committee 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 finance director 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 finance director will report to the audit and governance committee any serious breach of financial standing orders or of the financial regulations or procedural instructions issued in accordance with them.

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.

2. Financial planning**a) Planning process**

The council's financial planning processes and planning horizons, for the revenue budgets (including the housing revenue account), the capital programme and the

medium term financial strategy, will be determined by the finance director, subject to approval by the executive. This will have regard to the council's community strategy, corporate plan, corporate priorities and business plans.

3. Preparation of the revenue budget

a) Finance director's responsibilities

The finance director 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

The finance director also has specific responsibility for confirming the deployment of the dedicated schools grant in support of the schools budget, as required by section 16 of the Education Act 2002 and the Accounts and Audit (Amendment) (England) Regulations 2006.

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 plan, 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 finance director.
- iv) Ensuring that reports are submitted to the relevant executive member(s), seeking approval of fees and charges in relation to their areas of responsibility.

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 four-year budgeting, issue indicative cash limits for up to four 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 finance director will inform precepting and levying bodies of the approved council tax base.

b) Collection fund

The finance director 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.

All members must ensure that any outstanding debts relating to council tax or national non-domestic rates payable by them to the council have been settled at least one clear working day before the council assembly meeting at which the overall council tax is set.

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 finance director must:

report on the overall financial position of the council to the executive on a quarterly basis. This report will include any concerns s/he may have about the outturns projected by strategic directors or about financial controls within departments.

c) Budget adjustments/virements within a directorate

Strategic directors may vire budget provision between cost centre groups (as set out in the budget book) 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 finance director as per the schedule of corporately controlled budgets maintained by the finance director, (e.g. insurance, capital charges, leasing costs, service level agreements, FRS 17, planned maintenance etc) may not be vired for other purposes without the written consent of the finance director;
- (iii) The departmental strategic director must at the earliest opportunity report each virement in excess of £250,000 to the executive. This must include the movement of an approved budget from one service to another and adjustments between subjective categories of income and expenditure such as to reflect additional grant or other income and associated expenditure.

d) Budget adjustments/virements between directorates

- (i) Where responsibility for a service is transferred from one department to another and the annual cost transferred exceeds £250,000, the relevant strategic director(s) must obtain written consent from the finance director and the approval of the executive.
- (ii) Subject to paragraph ~~1340~~ of Part 3A of the Constitution "matters reserved to council assembly", the executive may at any time during a financial year, having considered a report of the finance director, 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, excluding those which form part of the schedule of corporately controlled budgets maintained by the finance director.

e) Treatment of overspends and underspends

The finance director may, on consideration of the overall financial position of the council at the end of a financial year, recommend to the executive whether overspends by departments should be set off against budgets in the subsequent financial year and whether underspends by departments can be made available for specific projects or carried forward to the subsequent financial year, or otherwise accounted for, in line with the Medium Term Financial Strategy.

f) Accuracy of accounts

It is the responsibility of strategic directors, having regard to any guidance which may be issued by the finance director, 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) Finance director

The finance director 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, as amended by the Accounts and Audit (Amendment) (England) Regulations 2006. The finance director will make arrangements for the coordination of the council's 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 finance director'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; and
- v. That their staff cooperate fully with the council's external auditors during their audit of the accounts and grant claims.

7. Preparation of the capital programme

a) Capital programme

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

b) Financing of schemes

Within the overall approved capital programme, the finance director will decide the method by which any particular scheme will be financed in consultation with the executive member for resources.

c) 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 finance director.

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 executive.

b) Reporting requirements

- (i) The finance director will report on the actual capital expenditure incurred in the first six months by the council as a whole to the executive by December. 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.
- (ii) The finance director 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 or profile 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 finance director and relevant executive members. 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 15% 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 finance director, 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 finance director 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 finance director 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 strategic director of children's services after agreeing them with the finance director.

c) Scheme for financing schools

The finance director and strategic director of children's services will consult on and issue a scheme for financing schools annually.

11. Treasury management

a) Prudential framework

- i) Prudential indicators

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

b) Borrowing and ~~investment~~ treasury management strategy and decisions

i) Strategy

The finance director shall set out the borrowing and ~~investment~~ treasury management strategy (including prudential borrowing arrangements) 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 finance director, who shall report on activity at least twice a year.

c) Departure from ODPM Guidance or the CIPFA Code

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

Glossary

Budget adjustments/virements

A budget adjustment or virement is a movement of an approved budget from one budget heading or service to another. It will be self-balancing and will be in response to either a change in the level of service (increased or decreased) or additional net costs or benefits within a service. It includes changes to expenditure and income budgets to take account of new grants or other income and associated expenditure including movements between subjective categories of income and expenditure and also corrections to budgets which were set on the basis of incomplete information. It may recognise movements to and from reserves and balances, which may only be actioned by the finance director.

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 finance director shall issue from time to time as part of the financial standing orders. Currently these are contained within the Money section of the Source (the council's business managers' handbook) and all complementary or otherwise similar procedures issued.

Minor changes

Minor changes are defined as

- typographical/presentational/explanatory changes
- changes in statutory framework, i.e. references to new or updated legislation
- changes in titles, names or terminology
- changes consequential to other constitutional changes already made.

ODPM

The Office of the Deputy Prime Minister, a former government department, which became part of the Communities and Local Government department in May 2006.

Partnership

A partnership is an agreement between the council and one or more parties to work together to enable the service provider to give the client the best possible service. The council may not always be the lead provider and the agreement may take a number of forms: it may be contractual, but involve a more integrated, consultative and interactive working relationship or there may be no contract, no formal specification and no competitive process. As a minimum, there should be a service level agreement. Partnerships include joint arrangements, joint committees, joint venture companies and any other special purpose vehicles.

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".

**AGENDA DISTRIBUTION LIST (OPEN)
COUNCIL ASSEMBLY (ANNUAL MEETING) – SUPPLEMENTAL NO. 1**

MUNICIPAL YEAR 2008-09

NOTE: Original held by Constitutional Team; all amendments/queries to
Lesley John Tel: 020 7525 7228/7236

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