

Council Assembly Annual Meeting

Wednesday 19 May 2010
7.00 pm
Town Hall, Peckham Road, London SE5 8UB

Councillors are summoned to attend a meeting of the Council to consider the business contained herein



Annie Shepperd
Chief Executive

INFORMATION FOR MEMBERS OF THE PUBLIC

Access to information

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Contact

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Date: Tuesday 11 May 2010



Council Assembly (Annual Meeting)

Wednesday May 19 2010
7.00 pm
Town Hall, Peckham Road, London SE5 8UB

Order of Business

Item No.	Title	Page No.
	PART A - OPEN BUSINESS	
1.	ELECTION OF MAYOR	
	To elect a new Mayor for the municipal year 2010-11.	
	<i>Note: Following the conclusion of this item there will be a five minute adjournment.</i>	
2.	PRELIMINARY BUSINESS	
	2.1. ANNOUNCEMENTS FROM THE MAYOR OR CHIEF EXECUTIVE	
	2.2. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE MAYOR DEEMS URGENT	
	2.3. DISCLOSURE OF INTERESTS AND DISPENSATIONS	
	2.4. APOLOGIES FOR ABSENCE	
4.	OTHER REPORTS	
	4.1. APPOINTMENT OF LEADER AND EXECUTIVE, ESTABLISHMENT OF OVERVIEW AND SCRUTINY COMMITTEE AND OTHER CONSTITUTIONAL ISSUES 2010-11	1 - 10
	4.2. ESTABLISHMENT OF COMMITTEES AND OTHER CONSTITUTIONAL ISSUES 2010-11	

To follow.

Item No.	Title	Page No.
	4.3. NOMINATIONS TO LONDON COUNCILS COMMITTEE AND FORUMS 2010-11	11 - 19
	4.4. CONSTITUTIONAL REVIEW	20 - 60

5. AMENDMENTS

To be circulated prior to the meeting.

ANY OPEN ITEMS IDENTIFIED AS URGENT AT THE START OF THE MEETING

EXCLUSION MOTION (IF NECESSARY)

The following motion should be moved, seconded and approved if the council wishes to exclude the press and public to deal with reports revealing exempt information:

“That under the access to information procedure rules of the Southwark constitution, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in section(s) 1 – 7 of paragraph 10.4 of the procedure rules.”

PART B - CLOSED BUSINESS

ANY CLOSED ITEMS IDENTIFIED AS URGENT AT THE START OF THE MEETING

Date: Tuesday 11 May 2010

Agenda Item 4.1

Item No. 4.1	Classification: Open	Date: 19 May 2010	Meeting Name: Council Assembly (Annual Meeting)
Report title:		Appointment of Leader and Executive, Establishment of Overview and Scrutiny Committee and Other Constitutional Issues – 2010-11	
Ward(s) or groups affected:		All	
From:		Strategic Director of Communities, Law & Governance	

RECOMMENDATIONS

1. That council assembly consider the following constitutional issues for the coming municipal year 2010-11:
 - Appoint a leader of the council for a term of four years
 - Notes the appointment by the leader of executive portfolio members
 - Notes the establishment and appointment of executive committee
 - Notes the delegation of executive functions to the full executive, executive committees, individual executive members, chief officers and community councils
 - Notes that as a consequence the monitoring officer will update Part 3 of the constitution in accordance with the leader's report on the delegation of executive functions
 - Establishing the overview and scrutiny committee
 - Establishing the community councils
 - Establishing the voluntary bodies appointment panel
 - Agreeing dates of council assembly meetings for 2010-11
 - Appointments to Local Government Association General Assembly.
2. That council assembly notes the appointment of political group leaders, deputies and whips (see Appendix 1).

Appointment of leader of the council and the executive

3. That council assembly appoint a leader of the council for a term of four years.

Note: Once the leader has been appointed they will report on the appointments to the executive and on individual portfolios. The leader can appoint between 2 and 9 members to form an executive. The leader must appoint a deputy leader. The leader will report on the delegation of executive functions between full executive, individual decision makers, chief officers and community councils (see paragraphs 20-24).

4. That the leader reports to council assembly on the appointment of members of the executive and the determination and allocation of their executive functions.

Establishment and appointment of executive committee

5. That the leader reports on the establishment of any executive committees.

Note: The leader to establish any executive committees and nominate executive members to serve on the committees, including appointing chair and vice-chair.

Delegation of executive functions

6. That council assembly notes the leader's report on the delegation of executive functions to the full executive, executive committees, individual executive members, chief officers and community councils.
7. That council assembly notes that as a consequence of recommendation 6 the monitoring officer will update Part 3 of the constitution in accordance with the leader's report on the delegation of executive functions.

Overview and scrutiny committee

8. That the size and composition of the overview and scrutiny committee, as set out below, be approved:

Committee	Total	Liberal Democrats	Labour	Conservative
Overview and Scrutiny Committee (2009-10 allocation)	9 (9)	4 (4)	5 (4)	0 (1)

- Notes:*
1. *The current overview and scrutiny procedure rules provide that the overview and scrutiny committee will consist of the chair, vice chair and the chairs of the scrutiny sub-committees provided that the proportionality rules are not compromised. Each political group is permitted to nominate one non-executive member should this be necessary to maintain proportionality, for example, where there are fewer chairs of scrutiny sub-committees than places on the overview and scrutiny committee.*
 2. *The overview and scrutiny committee and any sub-committee which scrutinises the council's education functions will contain in its membership four voting co-opted members comprising one Church of England, one Roman Catholic Church and two parent governor representatives.*
 3. *No member of the executive shall serve on any scrutiny committee.*
 4. *In 2009-10 the overview and scrutiny committee comprised 9 members. The political composition of the committee was Liberal Democrats 4; Labour 4; and Conservative 1. Following the change in the council's composition a 9-seat committee now provides an allocation of Liberal Democrat 4 and Labour 5.*

9. That council assembly appoints the chair and vice chair of the overview and scrutiny committee.

Community councils

10. That the community councils be established as set out below:

Community councils

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

11. That council assembly considers whether it wishes to appoint chairs and vice chairs for the community councils.

Note: All outstanding appointments will be referred to the first meeting of the respective community council in the 2010-11 municipal year.

Establishment of voluntary bodies appointment panel

12. That council assembly establishes the voluntary bodies appointment panel (VBAP) with a composition of 2 Liberal Democrat and 3 Labour. The panel will be responsible for recommending the appointment of charity trustees to specific Southwark charities and recommending appointments to the position of school governor on local education authority secondary and special school governing bodies.

Note: In 2009-10 the panel of five members, which was established by council assembly, comprised 2 Liberal Democrat, 2 Labour and 1 Conservative member.

Council assembly dates

13. That council assembly agrees to the following dates for meetings of council assembly and that these dates be fixed in the council calendar for the municipal year 2010-11:
- 14 July 2010
 - 3 November 2010
 - 26 January 2011
 - 22 February 2011 (Budget and council tax setting)
 - 6 April 2011
 - 18 May 2011 (Annual).

Note: The proposed dates are based on the meetings held in 2009-10.

Appointments to Local Government Association General Assembly

14. That council assembly appoints three representatives and allocates five votes to the representatives to the LGA General Assembly (see Appendix 3).

Other appointments to joint committees/outside bodies

15. That council assembly notes the executive and other committees will make appointments to all other outside committees and bodies for the municipal year 2010-11, as required by part 3S of the constitution.

BACKGROUND INFORMATION

16. The constitution is updated annually and the recommendations in this report are based on the current constitution.

KEY ISSUES FOR CONSIDERATION

Appointment of leader of the council

17. The Local Government and Public Involvement in Health Act 2007 required the council to make changes to its governance and decision making arrangements. At an extraordinary meeting of council assembly on 4 November 2009 the council agreed that the executive leader and cabinet model be adopted. The new arrangements are to commence immediately after the elections in May 2010.
18. In accordance with the agreed executive arrangements, from the third day after the May 2010 borough election the term of office of the leader starts on the day of their election as leader and ends on the day of the next post-election annual meeting, unless they are removed from office or resign, cease to be a member, or are disqualified from being a councillor before that day
19. The executive “leader and cabinet” model is similar to Southwark’s previous leader and executive arrangements. There continues to be a leader of the council and a cabinet of at least two but no more than nine other councillors. However, much more power is placed in the hands of the leader of the council than in the past. The leader is responsible for all executive functions, and decides which of these functions are going to be delegated to other executive members, local committees or council officers. The executive is appointed by the leader and not by the whole council as in the past. Another change to the previous arrangements is that the leader is elected by the whole council for a period of four years at the first meeting of the council after the 2010 elections.

Report of the leader of the council and delegation of executive functions

20. Once the leader is elected they will present a report on how the executive functions of the council are exercised. The elected leader must then proceed to appoint their executive. In accordance with the constitution this can consist of a minimum of 2 and up to a maximum of 9 nominated members, whose portfolios are determined and allocated by the leader. The leader must appoint a deputy leader.
21. In 2009-10 the nine executive members were appointed and allocated the following portfolios:
- Leader (including responsibility for setting strategic direction and key priorities, overseeing the development of financial strategies, customer relationships policy, school and education attainment and representing the council in the community and in negotiations with regional and national organisations)
 - Deputy Leader (responsible for housing and the executive’s relationship with the scrutiny committee)
 - Community Safety
 - Health and Adult Care
 - Environment
 - Children’s Services
 - Citizenship, Equalities and Communities

- Resources
 - Culture, Leisure and Sport
 - Regeneration.
22. The leader will be invited to report on the delegation of executive functions, appoint a deputy leader and appoint other executive members and their portfolios.
23. The leader will report on any further delegations including:
- The extent of any authority delegated to executive members individually, including details of the limitation on their authority
 - The terms of reference, membership and constitution of executive committees
 - The nature and extent of any delegation of executive functions to community councils, any other authority or joint arrangement
 - The nature and extent of any delegation to officers with details of any limitation on that delegation.
24. Following receipt of the leader's report, council assembly will note as a consequence that the monitoring officer will update Part 3 of the constitution in accordance with the leader's report on the delegation of executive functions.

Overview and scrutiny committee

25. The overview and scrutiny committee is not an "ordinary" committee and is considered separately for the purposes of proportionality. Scrutiny sub-committees will be established by the overview and scrutiny committee at its first meeting.
26. Council assembly can agree an allocation that is disproportionate, provided no member votes against this.

Appointments to seats

27. Section 16(1) of the Local Government and Housing Act 1989 provides that it is the duty of an authority or committee to exercise its power to make appointments in such a way as to give effect "to such wishes about who is to be appointed to the seats on that body which are allocated to a particular political group as are expressed by that group".
28. There is no requirement that a seat allocated to a particular group can only be filled by a member of that group. Therefore, groups have discretion to allocate seats as they wish, including to a member of another group, or an individual councillor or councillors sitting on the council.

Establishment of voluntary bodies appointment panel

29. Council assembly will consider the establishment and composition of the voluntary bodies appointment panel, which will be responsible for making recommendations on appointments to specific Southwark charities and for recommending appointments to secondary and special school governing bodies.

Council assembly dates

30. A calendar of council assembly meetings for the 2010-11 municipal year has been prepared and is shown in the recommendations. The proposed dates are based on the meetings held in 2009-10.

31. Council assembly is asked to formally agree these dates, in accordance with the relevant statutory provision.
32. In respect of meetings other than council assembly, a copy of the calendar will be circulated with a separate report on establishing committees.

Members' allowances scheme

33. On May 23 2007 constitutional council agreed the members' allowances scheme to cover the period 2007-08 to 2010-11. No changes to the scheme are required for the forthcoming year.
34. It is the responsibility of the constitutional steering panel (CSP) to recommend any changes to the members' allowances scheme to council assembly. This is a requirement of the constitution. Any proposals that political groups may wish to submit on changes to the members' allowances scheme will therefore first have to be considered by the constitutional steering panel. Although specific proposals cannot be submitted for consideration by the annual meeting of council assembly, changes can be submitted in the form of an amendment that refers specific changes to the scheme back to CSP to consider them and then to report back to the next council assembly.

Appointments to Local Government Association (LGA) General Assembly

35. Council assembly may appoint up to four representatives to the LGA. In 2009, due to increased financial constraints council assembly appointed three representatives to the Local Government Association (LGA) General Assembly and allocated 5 votes amongst the three representatives. In 2010 council assembly is asked to appoint three representatives and allocate 5 votes. In 2009 council assembly appointed Councillors Nick Stanton (2 votes), Peter John (2 vote) and Toby Eckersley (1 vote). The LGA encourages local authorities with 3 or 4 representatives to allocate at least one position and vote to a minority group representative.

Appointments to outside bodies and joint committees

36. Government guidance states that appointments to outside bodies and joint committees are "local choice" functions. As such, the executive should make appointments that correspond to functions for which the executive has responsibility (e.g. housing, education, social services, regeneration, etc.). Council assembly agreed in 2003 that appointments to outside bodies, where they are not a function of the executive or delegated to any other body, should be the responsibility of standards committee or other delegated body.
37. The nomination of representatives to serve on the various London Councils committees and forums is normally the responsibility of the executive, as a local choice function. However, as the deadline for nominations is 1 June 2010 and this is before the first meeting of the executive, council assembly is asked to agree the nominations for the year 2010-11 (see separate report).

Appointments to panels, boards and forums

38. The executive will consider appointments to panels, boards and forums where the function falls within the responsibility of the executive (e.g. housing, education, social services, regeneration, etc.).

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Appointment of Leader and Executive, Establishment of Committees and Other Constitutional Issues 2009-10 Council Assembly May 2009 report	160 Tooley Street, London, SE1 2TZ	Ian Millichap 020 7525 7225

APPENDICES

Appendix	Title
Appendix 1	Political Group Leaders, Deputies and Whips <i>(To be circulated separately)</i>
Appendix 2	Overview and Scrutiny Committee and Community Council Appointments 2010-11
Appendix 3	Appointments to LGA General Assembly

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Communities, Law & Governance	
Report Author	Ian Millichap, Constitutional Manager Lesley John, Constitutional Officer	
Version	Final	
Dated	11 May 2010	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments Included
Strategic Director of Communities, Law & Governance	Yes	Yes (included in body of report)
Executive Member	No	No
Date final report sent to Constitutional Support Services	11 May 2010	

OVERVIEW & SCRUTINY COMMITTEE

Summary of Functions	Status	Membership	How often it Meets	Politically Proportionate
<p>Overview and scrutiny committee (OSC) is the coordinating scrutiny body and appoints five scrutiny sub committees. It questions executive members and can "call-in" decisions taken by the executive.</p> <p>OSC co-ordinates councillor calls for action and scrutiny of crime and disorder, considers requests for scrutiny reviews and approves scrutiny work programmes. It comments on scrutiny reports that propose policy change or that have resource implications, reviews overview and scrutiny procedures and reports annually to council assembly.</p> <p>OSC can appoint joint committees with other local authorities. In addition it can scrutinise matters in respect of the policy and budget framework, human resources, customer access issues and the council's equalities and diversity programmes.</p>	Scrutiny committee	9 councillors - a chair and vice- chair appointed by council assembly, the chairs of the five scrutiny committees (provided that the proportionality rules are not compromised and that each group is permitted to nominate additional members to maintain proportionality) and education representatives as set out at paragraph 4.1 of the overview and scrutiny procedure rules.	Monthly	Yes (Local agreement)

∞

Allocation 2009-10 (No. of Reserves in brackets)	Proposed Allocation 2010-11 (No. of Reserves in brackets)	Appointments to Committee
Liberal Democrats: 4 (4) Labour: 4 (4) Conservatives: 1 (1)	To be agreed	Chair Vice chair

COMMUNITY COUNCILS

Summary of Functions	Status	Membership	How often it Meets	Politically Proportionate
To bring decision making nearer to local people. To increase public participation in shaping service delivery and policy choices and deliver democratic renewal and provide a forum where the views of all its constituents, partners and stakeholders can be heard.	Committee (Exercises some executive and regulatory functions)	Relevant ward councillors	Main meetings – about every 6 weeks Planning meetings – about every 4 weeks	No

Allocation 2009-10 (No. of Reserves in brackets)	Proposed Allocation 2010-11 (No. of Reserves in brackets)	Appointments to Committees
<p>Borough and Bankside All councillors from Cathedrals and Chaucer Wards:</p> <p>Bermondsey All councillors from Grange, Riverside and South Bermondsey Wards</p> <p>Camberwell All councillors from Brunswick Park, Camberwell Green and South Camberwell Wards</p> <p>Dulwich All councillors from College, East Dulwich and Village Wards:</p> <p>Nunhead and Peckham Rye All councillors from Nunhead, Peckham Rye and The Lane Wards</p> <p>Peckham All councillors from Peckham and Livesey Wards</p> <p>Rotherhithe All councillors from Rotherhithe and Surrey Docks Wards (voting) and Livesey Ward (non voting, except for planning matters)</p> <p>Walworth All councillors from Faraday, East Walworth and Newington Wards</p>	Unchanged	Chair Vice chair

APPENDIX 3

APPOINTMENT TO LGA GENERAL ASSEMBLY

Name	Purpose	Member Status	How often it Meets	Date of Meeting	No. of Places to be filled	Notes
LGA General Assembly	To consider strategic policy of national significance to local government.	Council representative	Once a year	6 July 2010 (annual meeting) 7 & 8 July 2010 (annual conference)	Three representatives with an allocation of 5 votes. (2009-10 representatives: - Councillors Nick Stanton (2 votes) Peter John (2 votes) and Toby Eckersley (1 vote).	The Local Government Association advises that votes can be allocated amongst the representatives as the local authority sees fit. The Local Government Association encourages local authorities with 3 or 4 representatives on the General Assembly to allocate one of the positions to minority group leaders. Council assembly can agree any combination of representatives and votes.

Item No. 4.3	Classification: Open	Date: 19 May 2010	Meeting Name: Council Assembly
Report title:		Nominations to London Councils Committees and Forums 2010-11	
Ward(s) or groups affected:		None	
From:		Strategic Director of Communities, Law & Governance	

RECOMMENDATION

1. That council assembly consider and agree nominations to the London Councils committees and forums listed in Appendix 1 of the report.

BACKGROUND INFORMATION

2. The council nominates representatives to serve on the London Councils committees and forums on an annual basis. The nomination of representatives to the London Councils committees and forums fall within the terms of reference of the executive. However because the deadline for the submission of nominations to London Councils is 1 June 2010, and there is no executive meeting between the annual meeting and 1 June, council assembly is being asked to agree the nominations for 2010-11 in order to meet the deadline set by London Councils.

KEY ISSUES FOR CONSIDERATION

3. The Local Government Act 2000 and regulations enables local authorities to make use of joint arrangements with other authorities. Under these arrangements, a "joint committee" can be established in agreement with other local authorities to promote the economic, social or environmental well being of the area.
4. In this report the council is invited to make nominations to the following joint committees:
 - Leaders' Committee (s101 Joint Committee)
 - London Councils Transport and Environment Committee (Associated Joint Committee)
 - London Councils Grants Committee (Associated Joint Committee)
5. Council assembly may only nominate executive members as representatives or deputies to the above joint committees. The nominations need not reflect the political composition of the local authority as a whole. This is set out in Article 9 on joint arrangements in the council's constitution.
6. The remaining bodies/forums referred to in Appendix 1 of the report do not have the status of a "joint committee", council assembly may therefore appoint any member to serve on these bodies. In considering the nominations, council assembly should be mindful of the information provided by London Councils which states that boroughs usually nominate the relevant lead member as the representative.

7. The details relating to the nominations are set out in Appendix 1 of the report.
8. London Councils committee and forum meetings are held during the day. There are no evening or weekend meetings.

Legal Implications

9. There are no specific legal implications.

Consultation

10. The group whips were provided with a copy of the London Councils circular relating to the nominations on 26 April 2010.

Community Impact Statement

11. The council is being invited to make nominations to the London Councils committees and forums. The nominations process has no direct impact on the community.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Correspondence from the London Councils	160 Tooley Street London SE1 2TZ	Everton Roberts 020 7525 7221

APPENDICES

No.	Title
Appendix 1	Nominations to London Councils Committees and Forums – Committee and Forum remit and places to be filled

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Communities, Law & Governance	
Report Author	Everton Roberts, Constitutional Officer	
Version	Final	
Dated	6 May 2010	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	No	No
Finance Director	No	No
Date final report sent to Constitutional Team	6 May 2010	

NOMINATIONS TO LONDON COUNCILS COMMITTEES AND FORUMS – COMMITTEE AND FORUM REMIT AND PLACES TO BE FILLED

Name	Remit	Member Status	No. of Places to be filled	Notes
London Councils Leaders' Committee (S101 Joint Committee)	<p>The London Councils main decision-making forum. It sets policy and takes decisions on the latest developments affecting London local government. The leaders committee also ratifies decision taken by the London Councils committees and forums.</p>	Council Representative	1 representative and up to 2 deputies	<p>Representative usually Leader of the Council, but another member can be nominated.</p> <p>Representative and deputies must be members of the executive.</p>
London Councils Transport and Environment Committee (Associated S101 Joint Committee)	<ul style="list-style-type: none"> • Oversight of operational services including: Freedom Pass, taxicard, lorry control, parking enforcement • Oversight of administrative support to parking, traffic and congestion charging adjudicators • Appointment of parking and traffic adjudicators • Setting parking, traffic and other penalties • Policy and borough support in <ul style="list-style-type: none"> - transport - environment - public protection - trading standards 	Council Representative	1 representative and up to 4 deputies	<p>Representative usually lead member for transport or environmental issues.</p> <p>Representative and deputies must be members of the executive.</p>

Name	Remit	Member Status	No. of Places to be filled	Notes
<p>London Councils Grants Committee (Associated Joint Committee)</p>	<p>The London Councils distributes £28 million of grants each to voluntary and not-for-profit organisations working in two or more London boroughs. Section 48 of the Local Government Finance Act 1992 governs the operation of the grants scheme. The London Councils Grants committee:</p> <ul style="list-style-type: none"> • Takes decisions on officer recommendations for grants • Considers and recommends an annual budget for the grants schemes and recommends this to the London Councils Leaders' Committee • Keeps the needs of London under review and in light of these, develops and recommends detailed criteria and priorities for grant giving to the London Councils Leaders' committee. 	<p>Council Representative</p>	<p>1 representative and up to 4 deputies</p>	<p>Representative preferably lead member with responsibility for partnerships and the voluntary sector.</p> <p>Representative and deputies must be members of the executive.</p>
<p>London Councils Children and Young People Forum</p>	<ul style="list-style-type: none"> • Safeguarding children • Youth Crime • Child Poverty including childcare and children's life chances • 14 – 19 education and training • Support for children in care. 	<p>Council Representative</p>	<p>1 representative and 1 deputy</p>	<p>Representative usually lead member for children's services.</p> <p>The forum meeting is open to any member with an interest in children's services and authorities will be able to send additional members.</p>

Name	Remit	Member Status	No. of Places to be filled	Notes
<p>London Councils Crime and Public Protection Forum</p>	<ul style="list-style-type: none"> To lead on the relationship with the Metropolitan Police, London Fire and Emergency Planning Authority, the London Community Safety Partnership and criminal justice agencies To lead on London Resilience policy and strategy To support boroughs with crime reduction and community safety policy and implementation, including sharing best practice To assist boroughs in representing concerns about the implementation of London wide crime and community safety programmes. 	<p>Council Representative</p>	<p>1 representative and 1 deputy</p>	<p>Representative usually lead member for community safety.</p>
<p>London Councils Culture, Tourism and 2012 Forum</p>	<ul style="list-style-type: none"> Culture and local area agreements Joint purchasing schemes Mayor’s Cultural Strategy and the London Cultural Consortium Regional commentaries in culture Culture and developing sustainable communities Major events i.e. London Olympic bid Development of tourism in London London-wide borough participation in and benefits from the London 2012 Olympic and Paralympic Games, focusing on: <ul style="list-style-type: none"> Volunteering Culture Inclusion of disabled people Community sport London Councils and boroughs’ role in delivering aspects of the Games Community engagement strategy for the Games. 	<p>Council Representative</p>	<p>1 representative and 1 deputy</p>	<p>Representative usually lead member for culture, sport or 2012.</p>

Name	Remit	Member Status	No. of Places to be filled	Notes
<p>London Councils Economic Development Forum</p>	<p>Represents the views of London boroughs on:</p> <ul style="list-style-type: none"> • Economic development and regeneration as part of the comprehensive spending review (CSR) • The review of the Mayor’s Economic Development Strategy • Welfare reform proposals <p>Work with London boroughs on:</p> <ul style="list-style-type: none"> • Reducing worklessness in London and improving the skills of Londoners • Lobbying and preparing for devolution to the local and sub-regional levels around economic development and skills and employment • Child poverty, particularly increasing parental employment • Influencing European policy and funding as it affects economic development and regeneration. 	<p>Council Representative</p>	<p>1 representative and 1 deputy</p>	<p>Representative usually lead member for regeneration / economic development.</p>
<p>London Councils Health and Adult Services Forum</p>	<ul style="list-style-type: none"> • Health and social care services for vulnerable people and their dependents • Supporting People • Commissioning social care • Joint assessment teams for benefits and social care • The health service in London • Promoting the health of Londoners • Mental health services 	<p>Council Representative</p>	<p>1 representative and 1 deputy</p>	<p>Representative usually lead member for health / social services.</p>

Name	Remit	Member Status	No. of Places to be filled	Notes
<p>London Councils Housing Forum</p>	<ul style="list-style-type: none"> • Housing revenue and capital finance to meet housing need in London, and innovation and flexible financial arrangements to deliver better housing • Mayor’s housing strategy and borough housing interests relating to planning issues • Boroughs’ strategic housing role • Homes that are affordable and facilitate return to work • Link better housing and cross-cutting issues such as supporting people, child poverty, health and regeneration • The future of housing for London, particularly mixed and sustainable communities. • The work of boroughs in tackling homelessness • Housing benefit, the local housing allowance, worklessness and benefit dependency. 	<p>Council Representative</p>	<p>1 representative and 1 deputy</p>	<p>Representative usually lead member for housing.</p>

Name	Remit	Member Status	No. of Places to be filled	Notes
<p>Greater London Employment Forum</p>	<p>The Employers' side of the Greater London Employment Forum (GLEF) acts as the regional employer for London for those staff employed under the National Joint Council for Local Government Services, for all the boroughs which choose to be party to it. The full GLEF is made up of employers and trade union representatives.</p> <p>The GLEF may consider and debate any employment, development, efficiency, performance and improvement related matter affecting the employees of the London authorities which could include:</p> <ul style="list-style-type: none"> • Pay and conditions of employment including equal pay and the achievement of single status employment. • Measures to improve recruitment and retention. • Productivity and performance management. • Measures to improve efficiency, effectiveness and value for money. • Measures to increase the skills and capacity of the workforce. • Equality and diversity in the workplace. 	<p>Council Representative</p>	<p>1 representative and 1 deputy</p>	<p>Representative usually lead member for human resources issues.</p>

APPENDIX 1

Name	Remit	Member Status	No. of Places to be filled	Notes
London Councils Limited	Each borough is required to appoint a representative to the company, London Councils Limited.	Council Representative	1 nomination	The borough's representative on the Leaders Committee is normally appointed and will be unless a borough specifically indicates otherwise.

Item No. 4.4	Classification: Open	Date: 19 May 2010	Meeting Name: Council Assembly (Annual Meeting)
Report title:		Constitutional Review	
Ward(s) or groups affected:		All	
From:		Strategic Director of Communities, Law & Governance	

RECOMMENDATIONS

That the following constitutional changes be recommended to council assembly:

Overview and scrutiny – Article 5 and procedure rules

1. That the changes to Article 5 on overview and scrutiny and the overview and scrutiny procedure rules as described in paragraph 15 and set out in Appendix 1 of this report be agreed.

Part 3G: Licensing committee and sub-committees – minor variations process

2. That the constitution be amended to include provision for the determination of applications for minor variations of premises licences and club premises certificates, as set out in Appendix 2 of this report (see also paragraphs 16-26).

Contract standing orders

3. That the changes to contract standing orders as described in paragraphs 27-35 and set out in full in Appendix 4 of this report be agreed.

Treasury management – audit and governance committee / financial standing orders

4. That the changes to part 3L of the constitution to include scrutiny of the treasury management strategy and policies in the audit and governance committee's role and functions, as described in paragraph 39 and set out in Appendix 5, be agreed.
5. That the changes to financial standing orders to include monitoring and reporting of treasury management activity as set out in paragraphs 40-42 be agreed.

Budget and policy framework

6. That council assembly notes that a further report on the recommendations of scrutiny sub-committee C about the budget and policy framework will be submitted to the next council assembly (see paragraphs 44-46).

Consequential changes

7. That officers be authorised to undertake any consequential and cross referencing changes arising from changes to the constitution (see paragraph 47).

BACKGROUND INFORMATION

8. The council assembly on 24 March 2010 agreed a number of constitutional changes including: proposals for the creation of a separate set of community council procedure rules and a number of other statutory changes that had come to officers' attention. This report covers constitutional areas that form part of the annual review of the constitution.
9. The objective for making changes to the constitution is to ensure that it is easily understood and user friendly. In order to achieve this, council assembly should take into account that the constitution should be:
 - **Accessible** to all those who need to use it to understand their rights and obligations under it.
 - **Efficient:** supporting effective decision-making so that the business of the council can be delivered in line with best practice on corporate governance.
 - **Inclusive:** so that decision-making is open and transparent and involves local communities.
10. All constitutional changes are considered by constitutional steering panel, which then recommends changes to council assembly. All the changes in this report were recommended by the constitutional steering panel, which met on 30 March 2010. Changes to the constitution are generally agreed by council assembly, unless another body or individual is authorised to do so – see Article 1.15.

KEY ISSUES FOR CONSIDERATION

Introduction

11. The constitutional changes in this report constitute the first of two reports forming the full review, the second of which is scheduled to be submitted to next council assembly. This report focuses on those specific issues identified over the course of the year, including the impact of any government announcements. The constitutional steering panel in March 2010 decided to consider any proposals submitted from the political groups in June, which it agreed to recommend to the July meeting of council assembly. At the same time officers are continuing to work on preparations for other constitutional changes, and there may be additional matters to bring to a future constitutional steering panel.
12. The report sets out the key issues and changes arising from the constitutional review. Changes to the constitution are shown as follows:
 - Additions (shown as underlined);
 - Deletions (shown with a ~~striketrough~~).

13. The key issues requiring consideration are set out below:
- Overview and scrutiny – Article 5 and procedure rules
 - Part 3G: Licensing committee and sub-committees
 - Contract standing orders
 - Treasury management – audit and governance committee / financial standing orders
 - Member and officer protocol
 - Consequential changes

Community impact statement

14. There will be no direct impact on local people from adoption of these changes to the council's constitution. However, providing for wide involvement of those using the constitution, including the local community where relevant, will enable people to understand the role that they can play in the decision making of the council and how the council will safeguard high standards of conduct amongst members and officers. Any specific issues relevant to each constitutional change are set out in the relevant section below.

OVERVIEW AND SCRUTINY – ARTICLE 5 AND PROCEDURE RULES

15. The proposed changes are mainly for reasons of clarity and to pick up past drafting errors. In addition, amendments are recommended to the call-in and councillor call for action procedures following experience in the 2009-10 municipal year where it became apparent that it would be helpful for the constitution to be more specific.

The recommended changes are set out in Appendix 1.

PART 3G: LICENSING COMMITTEE AND SUB-COMMITTEE – MINOR VARIATIONS PROCESS

Minor variations to premises licences / club premises certificates

16. The Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 & The Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009 came into force on 1 July 2009. The regulations amend the Licensing Act 2003 and the Licensing Act 2003 (Premises licences and certificates) Regulations 2005. The regulations include a new process for minor variations to premises licences and club premises certificates to allow this category of applications to be determined at officer level. In July 2009 the Department of Culture, Media and Sport issued supplementary guidance under Section 182 of the Act in relation to the new minor variations process. The guidance emphasises that this is intended to be a simplified process and recommends that decisions on minor variations should be delegated to licensing officers. The latter is a recommendation which reflects best practice but is not a statutory obligation.
17. The constitutional changes required by these regulations were first reported to the constitutional steering panel on 6 October 2009. At the time the

constitutional steering panel asked that the views of the licensing committee be sought and the following information be provided:

Information sought	Response
1. The panel asked whether the new regulations require the council to have a process for considering minor variations.	Officer advice is that this new statutory process for dealing with minor variations to premises licences and club premises licences. It is a requirement that a separate process exists.
2. That revisions to the constitution be reviewed to ensure sufficient clarity of the scope of minor variations in line with guidance.	The licensing committee has received two reports on the minor variation process. In the latest report to the licensing meeting in March 2010 a detailed description of the scope of minor variations was provided, which derives from the statutory guidance, which identifies the scope of such a variation and in particular states what cannot amount to a minor variation. The scope of a minor variation is set out in Appendix 3 of this report. The committee also noted a protocol setting out how licensing officers should deal with the minor variations process under delegated authority.
3. That the report clarifies that the revised provisions relate to alcohol licences and not gambling licences.	Officers can confirm that this process relates to premises licences under the Licensing Act 2003. It does not apply to gambling licences.

Licensing committee

18. The licensing committee on 8 October 2009 considered a report on the changes. The committee noted the constitutional change but asked officers to report back with additional information on the scope of a minor variation and provide a protocol setting out how licensing officers would discharge this function under delegated authority. On 9 March 2010 the licensing committee considered a protocol detailing how the process would operate in practice. The committee had no comments and agreed to note the officer protocol.
19. The licensing committee have been advised that a report is to be submitted to the constitutional steering panel and then to council assembly, seeking to amend the council's constitution in order to provide for determination of contested minor variation applications by the head of service (the Environmental Health and Trading Standards Business Unit Manager). In the event that this proposal is approved by the council assembly, amendment will also be made to the appropriate internal scheme of delegation. The recommended changes required to the constitution are set out in Appendix 2.

Minor variations process

20. The new process is established to provide a simplified applications process for minor variations to premises licences and club premises certificates where such variations will not impact adversely on the licensing objectives. In effect these provisions relate to a relatively small number of applications. Minor variations will generally fall into four categories:
- Minor change to the structure or layout of a premises
 - Small adjustments to licensing hours, specifically excluding extending the terminal hour
 - The removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions
 - The addition of certain licensable activities.
21. The DCMS guidance is helpful, in defining the relevant forms of application. Some of the main points raised are set out in Appendix 3.
22. Applications for new premises licences, major variations of existing licences, licence reviews and temporary event notices (TENs) remain unaffected and will continue to be considered by the licensing sub-committees.
23. No provision is made within the regulations for the public hearing of any contested application. Supplementary guidance issued by the Department of Culture Media and Sport (DCMS) under section 182 of the 2003 Act notes that the “Government recommends that decisions on minor variations should be delegated to licensing officers”.

Community impact statement

24. The 2003 Licensing Act sets out four licensing objectives. These are
- To prevent crime and disorder
 - To ensure public safety
 - To prevent nuisance
 - To protect children from harm.
25. Although this new process provides a simplified system for making minor variations to premises licences and club premises certificates, it is intended only for applications that have no adverse impact on the objectives.
26. The simplified process, however, progresses the government’s simplification agenda; removing unnecessary burdens on business but without affecting protections afforded local residents. The process retains provision for (limited) public consultation and the involvement of the responsible authorities where necessary

CONTRACT STANDING ORDERS

27. The contract standing orders (CSOs) are reviewed each year to reflect any statutory or procedural changes. Article 1 of the constitution provides that minor changes may be made by the finance director and monitoring officer to CSOs, but all other changes must be agreed by council assembly. It should be

noted that other changes which may be agreed to the constitution by council assembly may have an impact on CSOs which would need to be picked up subsequently

28. The recommended substantive changes are set out below (and are included in Appendix 4).

Revised section 3.1 on corporate contracts

29. Amendments are proposed to this section to make it clear that the requirement to use corporate contracts includes corporate frameworks and that their use is mandatory.

New section 3.5 Leasing

30. The requirement to obtain the finance director's written permission before entering leasing contracts is made clear in the FSOs but until now has not been included within the CSOs. In order to ensure that officers are aware of this when consideration is being given to entering a leasing contract, it is proposed that this requirement be referred to explicitly here.

New section 4.5.3 on requests to delegate the decision on the award of a contract

31. It is proposed that a section be included to clarify to whom authority to delegate contract award decisions may be made.

Southwark will implement changes in executive arrangements to comply with the 'strong leader' model adopted by council assembly in November 2009. These new arrangements will come into effect from the annual meeting in May 2010. Under these arrangements the leader will be responsible for all executive functions, and will decide which of these functions can be delegated to the executive, individual executive members, or council officers. Where the leader has delegated the function to the executive, such as the award of a Gateway 1 contract, the executive may arrange for the discharge of this function by a chief officer. In addition the leader may be authorised to make the decision.

New section 4.6.1 on use of gateway 3 reports

32. At the moment requests to approve variations to a contract have required the use of a gateway 3 report, irrespective of the value of the variation. For approval of procurement strategies and contract awards, use of gateway 1 and 2 reports has been mandatory for contracts with an estimated value of more than £75,000 and good practice for those with a lower value. It is proposed to bring variation decisions into line with other contract-related decisions so that use of a gateway 3 report will be mandatory for all variation decisions of more than £75,000 and recommended for those with a lower value.

Revised section 4.7 on retrospective approvals

33. Since the requirement to report retrospective approval decisions to the audit and governance committee was introduced two years ago, it has applied to all decisions, irrespective of value. Following consideration by the audit and governance committee at its meeting earlier in February 2010 of the

introduction of a threshold, it is proposed that future reports be made to the committee only in relation to decisions with an estimated value of more than £100,000. Retrospective decisions below this figure will still need to be reported to the relevant departmental contract review board.

Revised section 4.9 on emergencies

34. Following emergency action taken to restore public ICT provision in Southwark's libraries, a need to review the definition of 'emergency' was identified. At the moment it is defined as "a situation where action is needed to prevent a risk of injury to... the security or structural viability of a property". Officers agreed that the action taken on this occasion fell within the definition of emergency action, but suggested that it would be appropriate to amend the section to clarify that a more comprehensive view can be taken. The changes proposed aim to make it clear that action taken in relation to assets such as IT infrastructure may fall within this section.

Revised section 5.1 on permission not to use the council's works approved list

35. At the moment CSOs are not explicit about the need to obtain permission to use a supplier who is not on the council's works approved list through a gateway 1 report for contracts valued below £5,000. This amendment is proposed to make this requirement clear.

TREASURY MANAGEMENT – AUDIT AND GOVERNANCE COMMITTEE / FINANCIAL STANDING ORDERS

Updated CIPFA's Treasury Management in the Public Services Code of Practice

36. Following the collapse of the Icelandic banks and the publication of reports by the Audit Commission and the Communities and Local Government Select Committee on local authority treasury management and investments, CIPFA has revised its Treasury Management in the Public Services Code of Practice and guidance notes. In managing borrowing and investment activities, local authorities are required to have regard to the Treasury Management Code.
37. Council assembly (council tax setting) meeting on 23 February 2010 noted the updated Treasury Management in the Public Services Code of Practice and formally affirmed its adoption by agreeing resolutions which included an invitation to the constitutional steering panel to consider future arrangements for additional review and scrutiny. The constitutional steering panel on 30 March 2010 considered this issue.
38. The revised code recommends additional reporting, monitoring and scrutiny of treasury management. Proposed changes in relation to these areas are set out in paragraphs 39 to 42 below.

Scrutiny of treasury management strategy and policies

39. The revised code proposes that responsibility for effective scrutiny of treasury management strategy and policies be undertaken by a nominated body which might be the full council, a relevant committee (such as audit or scrutiny committee) or a panel of individuals. The finance director retains responsibility for the execution and administration of treasury management decisions.

In relation to the scrutiny of the treasury management strategy and policies, the constitutional steering panel on 30 March 2010 considered making this the responsibility of one of the following: the pensions advisory panel, overview and scrutiny committee and the audit and governance committee.

The constitutional steering panel agreed to recommend that the remit of the audit and governance committee be extended to include this role. The proposed changes to the role and functions of the committee as set out in Part 3L of the constitution are set out below.

In the Introduction, insert **new** clause:

4. Scrutiny of the treasury management strategy and policies.

In the role and functions, after clause 19 insert **new** section called "Treasury management":

20. To review and scrutinise the treasury management strategy and policies.

Renumber sections from clause 4.

A full version of the role and functions showing the changes is set out in Appendix 5.

Monitoring and reporting of treasury management activity

40. In relation to reporting of treasury management activity, CIPFA's update to its Treasury Management Code restated the importance of risk management and raised the number of reports going to council assembly from two, as now, to three in future. The treasury management strategy is reported to council assembly for approval each year before the start of each year at the council tax setting meeting and the substantive changes proposed in paragraph 42 below make explicit the subsequent reports at mid year and year end to council assembly.
41. The revised code proposes that responsibility for implementation and regular monitoring of treasury management policies and practices be delegated to a named body which might be the full council, executive, a relevant committee or a panel. As the executive already has responsibility for strategic management of the council's resources and for the council's revenue and capital budgets and receives regular monitoring reports, it is proposed that these be extended to cover monitoring of treasury management activities. The recommended substantive changes are set out in paragraph 42 below.
42. Following on from CIPFA guidance the following substantive changes are recommended to FSO 11 (b) on treasury management borrowing and treasury management strategy and decisions:

Revised section 11 (b) (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.~~

New section 11 (b) (iii) - Reporting

The finance director shall monitor and report on operational activity in relation to the strategy on a quarterly basis to the executive and at mid year and year end to council assembly.

General advice on changes to financial standing orders

43. The financial standing orders (FSOs) are reviewed each year to reflect any statutory or procedural changes. Article 1 of the constitution provides that minor changes may be made by the finance director and monitoring officer to FSOs, but all other changes must be agreed by council assembly. It should be noted that other changes which may be agreed to the constitution by council assembly may have an impact on FSOs which would need to be picked up subsequently.

BUDGET AND POLICY FRAMEWORK

44. In 2009-10 scrutiny sub-committee C undertook a review of the format and detail of revenue budgets, scrutiny of budget proposals and improved consideration by council assembly, approval of the capital programme and use of reserves, which was referred by overview and scrutiny committee in November 2009 to the executive.
45. The executive on 15 December 2009 agreed to refer those recommendations relating to constitutional issues, including monitoring financial performance, approval of the capital programme and use of reserves, to be addressed as part of the annual constitutional review.
46. A separate report on proposals of scrutiny sub-committee C on the budget and policy framework is scheduled to come forward to the next council assembly.

CONSEQUENTIAL CHANGES

47. As a result of the changes suggested within this report officers will be required to update the constitution. Therefore council assembly is requested to authorise officers to undertake any necessary consequential changes.

OTHER IMPLICATIONS

Legal implications

48. This comment advises council assembly of the legal procedure relating to changes to the council's constitution.
49. Section 37 of the Local Government Act 2000 requires the council to "prepare and keep up-to-date" a constitution. Statutory guidance from the Department for Communities and Local Government states that constitutions "should be drafted as a flexible document" but leaves it up to local authorities to determine how and when the constitution is to be changed. It is also recognised that council constitutions cannot cover every eventuality.

50. Article 1 (1.5) (a) of Southwark's constitution states that any changes to the constitution which can only be approved by council assembly will require the prior consideration of the proposal by the constitutional steering panel.
51. Council assembly may approve any amendment to the constitution where the issue in general has previously been considered by the constitutional steering panel. Further, there is a distinction between changes to the constitution which clarify existing roles and functions and those which raise completely new matters which have not been considered in accordance with Article 1.

Resource implications

52. The budget for 2010-11 was set on 23 February 2010 and any changes to the constitution must be contained within the budget.
53. The constitution is produced in binder form with loose leaf pages and dividers. This means that any additional costs arising from the reproduction of small sections of the constitution are reduced compared to the reprinting of the whole constitution. Therefore, it is anticipated that the cost can be contained within existing budgets.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Southwark's Constitution.	Southwark Council, 160 Tooley Street, London SE1 2TZ	Lesley John 020 7525 7228
Constitutional steering panel - 30 March 2010 - report.	Southwark Council, 160 Tooley Street, London SE1 2TZ	Lesley John 020 7525 7228

APPENDICES

Appendix No.	Title
Appendix 1	Overview and scrutiny – articles, procedure rules and councillor call for action protocol
Appendix 2	Licensing Committee and Sub-Committee – Constitutional amendments for minor variation applications
Appendix 3	Licensing – Minor variations – background information Summary of process for considering minor variation applications
Appendix 4	Contract Standing Orders - Constitutional amendments
Appendix 5	Audit and Governance Committee – Constitutional amendment arising from new treasury management responsibilities

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Communities, Law & Governance	
Report Authors	Ian Millichap, Constitutional Manager Lesley John, Constitutional Officer	
Version	Final	
Dated	10 May 2010	
Key Decision?	No	
Consultation with other officers / directorates / executive member		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Incorporated
Finance Director	Yes	Incorporated
Head of Financial Governance	Yes	Incorporated
Strategic Director of Environment and Housing (Environmental Health and Trading Standards Business Unit Manager)	Yes	Incorporated
Executive Member	No	No
Date final report sent to Constitutional Team	10 May 2010	

Appendix 1

Proposed constitutional amendments to overview and scrutiny

Note – All additions of new text are shown as underlined and all deletions are shown with a ~~strikethrough~~.

PART 2 – ARTICLES

Article 5 – Overview and scrutiny committee and sub-committees

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

5.3 Specific functions

Scrutiny

Overview and scrutiny committee and its sub-committees may:

- c) consider referrals ~~on local government matters~~ from members on any of the functions of the committee/sub-committee
- d) question members of the executive and chief officers and relevant partner authorities about their decisions and performance, whether generally in comparison with local area agreements, service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects
- f) give notice of its recommendations to the executive and/or council assembly and publish recommendations
- g) give notice of its recommendations to the relevant partner ~~authority~~

OVERVIEW AND SCRUTINY PROCEDURE RULES

2. Membership of overview and scrutiny committees and its sub-committees

The overview and scrutiny committee will consist of:

- c) 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

Overview and scrutiny committee will appoint the chairs and vice-chairs of the scrutiny sub-committees ~~and remaining members~~ and agree the size and composition of the ~~scrutiny~~ sub-committees, in accordance with the statutory rules relating to proportionality.

4. Education representatives

- 4.4 Voting education representatives on overview and scrutiny committee may only sign a call-in request when the matter called-in relates to an education function.

Insert new paragraph 4.5:

- 4.5 In the event that an education representative does not attend a meeting of the committee on which they serve for a period of six consecutive months, without the approval of the council, they shall cease to be a representative on the committee.

5. Terms of reference of the overview and scrutiny committee

6. General terms of reference of all scrutiny committees/sub-committees

Change the order of current **paragraph 6** (General terms of reference of all scrutiny committees/sub-committee) so it comes before current **paragraph 5** (Terms of reference of the overview and scrutiny committee).

The paragraph numbers to be changed accordingly. The reason for this change is that current rule 6 applies to all scrutiny committees and it provides general overview of role of scrutiny.

In addition there are two changes to the current paragraph 6 as follows:

6.1

- a) to appoint five sub-committees, including a sub-committee with responsibility for crime and disorder, agreeing the size, composition and terms of reference and to appoint chairs and vice-chairs
- e) to receive and comment on scrutiny reports from the sub-committees ~~that propose policy change or that have resource implications~~

7. Matters within the remit of more than one scrutiny sub-committee

- 7.1 b) invite the other sub-committee to comment on findings prior to submitting its report to overview and scrutiny committee and to the executive/council assembly

12. Procedure at overview and scrutiny committee/sub-committee meetings

Insert new d) and re-number accordingly:

- 12.1 The overview and scrutiny committee and its sub-committees shall consider the following business (with the exception of c) which only applies to overview and scrutiny committee):

d) consideration of any councillor call for action

15. Agenda items

15.3 Any member of the council may give written notice to the proper officer that they wish to refer a councillor call for action to overview and scrutiny ~~be included in the agenda of a committee/sub-committee~~. If the proper officer receives such a notification then he/she will include the item on the agenda of the first appropriate committee or sub-committee for consideration as to whether it is valid in accordance with the councillor call for action protocol.

19. Reports from the overview and scrutiny committee and its sub-committees

19.4 Management of the flow of reports to the executive will be the responsibility of the overview and scrutiny committee. Reports ~~that propose policy change or that have resource implications (as opposed to comments on performance)~~ are formally routed via the overview and scrutiny committee so that it can add its own comments.

21. Procedure to call-in a decision

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 and scrutiny committee, plus three members of the committee, including education representatives ~~ee-optees~~ for the purpose of education decisions only.

24. Call-in meeting and action required of decision makers

Insert new 24.1 and re-number accordingly:

24.1 The decision maker or an appropriate substitute will be invited to attend and speak at the call-in meeting of the overview and scrutiny committee. Inability to attend will not delay consideration of the called-in decision.

COUNCILLOR CALL FOR ACTION PROTOCOL

1. The councillor call for action (CCfA) process provides ward members with a means of escalating matters of ward concern to an overview and scrutiny committee (OSC) or sub-committee, for possible onwards recommendations to the council's executive and/or other agencies. It is very important to note that a CCfA is intended to be a measure of "last resort" and may not be used until all other avenues have been exhausted. The CCfA may not be used in relation to individual planning and licensing decisions or where other avenues of appeal exist.
2. A ward member requesting a call for action will be asked to demonstrate that they have sought to address the issue through all existing means and the call will not be considered unless the overview and scrutiny committee or relevant sub-committee ~~of overview and scrutiny~~ is satisfied that:

- the councillor has made all reasonable efforts to resolve the matter via dialogue with council officers and or relevant partners; and,
 - the issue of concern is matter in respect of which the council has a statutory power or duty to deal with which is not precluded by legislation; and,
 - the issue of concern has a demonstrable impact on a part of or the whole of a councillor's ward.
3. Before a CCfA can be progressed to scrutiny, the member must provide documentation to show that they have taken the following steps:
- made the relevant service request/members' enquiry/letter to relevant other agency
 - raised issue with executive member or senior representative of partner agency
 - raised the issue of concern at Safer Neighbourhood Panel (for relevant crime and disorder matters) or
 - raised the issue of concern at area level.

Procedure for CCfA to be considered at scrutiny

4. The councillor must submit a written signed referral pro forma to the head of overview and scrutiny. It will set out:
- which ward councillor is sponsoring (if more than one councillor supporting)
 - agency responsible for the service(s)
 - background – including details of attempts to resolve matter via other means
 - issues for consideration
 - desired outcomes.
5. All such written requests will first be submitted by the head of overview and scrutiny to the first appropriate overview and scrutiny committee or sub-committee for their consideration in a reasonable timescale. The decision on which is the first appropriate committee or sub-committee is at the discretion of the head of overview and scrutiny.
6. The committee or sub-committee will consider the referral pro forma and supporting documentation. The sponsoring councillor will attend the committee or sub-committee to present the call for action and answer any questions from members.
7. The overview and scrutiny committee or sub-committee may reject any call for action if it:

- is not a matter for which the local authority or its partners has a responsibility, or which affects the borough
 - is defamatory, frivolous or offensive
 - is substantially the same as a CCfA which has been put to any meeting of the council in the past 6 months
 - is a matter relating to a planning decision
 - is a matter relating to a licensing decision
 - is a matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or appeal conferred by or under any enactment.
8. The head of overview and scrutiny will within three working days of overview and scrutiny committee or sub-committee notify the sponsoring councillor ~~that whether or not~~ the CCfA is considered valid. ~~Alternatively~~ If the CCfA is rejected, the overview and scrutiny committee or sub-committee may give advice and or signposts on other appropriate ways forward to help resolve the issue. The lead councillors and relevant executive member will be advised accordingly.
 9. If the CCfA is considered valid it will be referred by the head of overview and scrutiny, in consultation with the chair of the overview and scrutiny committee, to the overview and scrutiny committee or a sub-committee. The detailed arrangements for consideration of the item ~~considered valid~~ will be determined in liaison with the chair and vice-chair of the overview and scrutiny committee or sub-committee, and if appropriate, ~~the scrutiny committee concerned, who will put the CCfA on the agenda of the committee or appropriate sub-committee for consideration.~~
 10. A valid CCfA will be considered at the committee or appropriate sub-committee's next available meeting in public session unless the consideration of the issues involve the disclosure of exempt or confidential information as defined by the access to information procedure rules.
 11. The ward councillor's role in the consideration of the CCfA, as with any formal council business, is subject to compliance with the members' code of conduct.

Licensing Committee and Sub-Committee – Constitutional amendments for minor variation applications

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

Role 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
 - 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.

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.¹

¹ The approval of the licensing and gambling statements of policy is a matter reserved to council assembly.

2. To establish policies and procedures for considering and determining additional licensing functions conferred on the authority by statute.

Matters reserved for decision by the licensing committee and its sub-committees

Licensing Act 2003

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

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.

Matters delegated to the [relevant] head of service

1. Any minor variation to premises licences and club premises certificates where such variations will not impact adversely on the licensing objectives, falling into the following categories:
 - Minor change to the structure or layout of a premises
 - Small adjustments to licensing hours
 - The removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions
 - The addition of certain licensable activities such as the addition of live music unless there is likely to be an adverse impact on the licensing objectives.

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.
- c) Minor variations now fall under delegated authority following an amendment to guidance for section 41 of the Licensing Act 2003 (as amended) to be determined at officer level (as set out in the relevant departmental scheme of management).

Minor Variations – Background Information

Categories of application

1. Minor variations will generally fall into four categories
 - Minor change to the structure or layout of a premises;
 - Small adjustments to licensing hours, specifically excluding extending the terminal hour;
 - The removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and
 - The addition of certain licensable activities

Minor change to the structure or layout of a premises

2. Many small variations to layout will have no adverse impact on the licensing objectives. Primarily these are likely to comprise cosmetic changes to existing layout plans arising from redecoration or refurbishment. For instance, a refurbishment might include the physical relocation of the bar within a public house. While this would require new plans to be submitted in order that the licence properly reflects the layout of the premises concerned, often such a re-arrangement will have no impact on means of escape, nor numbers accommodated; nor sound containment measures or other consideration relevant to the licensing objectives. Where, however, changes to layout do have potential impacts upon the licensing objectives these would be referred to the full variations process. Applications under this category which are likely to have an adverse impact on the licensing objectives and which are therefore not suitable to be dealt with under the minor variations provisions include applications that:
 - increase the capacity for drinking on the premises;
 - affect access between the public part of the premises and the rest of the premises or the streets or public way; and
 - impede the effective operation of a noise reduction measure such as an acoustic lobby.

Small adjustments to licensing hours

3. Applications to reduce licensing hours for the sale or supply of alcohol or to move (without increasing) the licensed hours between 07.00 and 23.00 will normally be processed as minor variations.
4. Applications to vary the time during which other licensable activities take place should be considered on a case by case basis with reference to the likely impact on the licensing objectives.
5. Variation applications which seek to
 - extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23.00 and

- 07.00; or
- to increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises.

are excluded from the minor variations process and must be treated as full variations in all cases.

Licensing conditions

6. Licensing authorities have no ability to impose their own conditions on a licence through the minor variations process. Applicants may, however, volunteer conditions as part of the process.
7. An application to remove a condition or vary the wording of a condition should normally be treated as a full variation application unless the condition is out of date, irrelevant or unenforceable.

The addition of certain licensable activities

8. Guidance indicates that the government's intention is that local licensing authorities should be prepared to consider accepting applications to add the provision of live music as a new activity to an existing licence under the minor variations process. Guidance does also recognise, however, that as in all other situations the authority must consider whether the application in question has any potential impact on the licensing objectives. Clearly, there may be situations where, for example, a restaurateur's proposal to provide an occasional acoustic solo musician to add ambience to his premises, may have little impact on local residents. However, equally clearly, another application to add live music to a premises licence, may effectively change the nature of that premises and turn it into a live music venue and in this circumstance there could be considerable potential impacts on local residents in terms of both noise nuisance and disturbance from customers. Local authorities are thereby advised to consider factors such as proximity to residential areas and any noise reduction conditions volunteered by the applicant and the views of the responsible authorities in gauging whether an application has potential impact on the licensing objectives would become particularly important. As in all other situations, if an application had potential to impact upon the licensing objectives it would not be agreed under the minor variations process.
9. Similarly, in some circumstances the addition of other types of regulated entertainment, such as the performance of plays or exhibition of films, may have no adverse impact on the licensing objectives.

Summary of process for considering minor variation applications

10. In summary, applicants wishing to apply for a minor variation are required to complete a pro-forma application to the licensing authority; pay a standard fee of £89; and advertise the application at the premises by way of a white notice, complying with the regulations, for a period of 10 working days commencing the working day after the application was given to the licensing authority.
11. On receipt of an application the licensing authority must consider whether the variation could adversely impact on the licensing objectives. It must consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and take their views into account.

12. The licensing authority must then also consider any relevant representations received from interested parties within the specified time-limit.
13. If no relevant representations are received, the licensing authority must determine the application before the 15th working day after the day the authority received the application. Applications may be granted or refused. If no determination is made by that date the application is automatically treated as refused.
14. Deemed refused applications may be resubmitted as minor or major variations. Where an application is refused and resubmitted through the major variation process, the normal full notification and consultation procedures applies.
15. No provision is made within the regulations for the public hearing of any contested application. Supplementary guidance issued by the Department of Culture Media and Sport (DCMS) under section 182 of the 2003 Act notes that the "Government recommends that decisions on minor variations should be delegated to licensing officers".
16. The final decision to grant an application will be taken by the area principal licensing officer in conjunction with a team leader and will be ratified by the unit manager on behalf of the business unit manager. All decisions will be taken with reference to the DCMS guidance and with regard paid to all other relevant matters. All decisions will be recorded on the service database, with reasons for decisions included.
17. A draft officer protocol has been drawn up setting out clear guidance to officers to ensure consistent management of the process. The licensing committee on 9 March 2010 is reviewing this.

Interim arrangements

18. Until such time that the constitutional change may be approved, contested applications for minor variations will be reported to the licensing sub-committee for determination in closed session, on the proviso that such an opportunity exists within the 5 day period allowed. If no appropriate meeting is timetabled the application will not be determined and will be deemed refused.

APPENDIX 4

Note – All additions of new text are shown as underlined and all deletions are shown with a ~~strikethrough~~.

CONTRACT STANDING ORDERS 2010-11

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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 corporate procurement and/or legal services for all contracts where European law applies or which are Strategic Procurements and for other contracts if they have any queries.

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 important words or phrases (e.g. Estimated Contract Value).

1. When do Contract Standing Orders apply?

1.1 CSOs 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 4.8 below).

1.2 CSOs 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 CSOs, 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)
- g) the council's sustainable communities strategy.

2.2 Consequences of non-compliance

It is a disciplinary offence to:

- fail to comply with CSOs
- 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, quality considerations and the need to implement the council's sustainable communities strategy 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 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 procurement process:

- a) all staff, whether directly 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
- 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
- d) joint negotiating committee (JNC) officers
- e) any other officers who regularly give advice to members including report authors.

- 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 Changes to CSOs

As set out in article 1, the monitoring officer may make minor changes to 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 or Corporate framework for a service, supply or for works, it should must 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 4.8) 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 for the use of that Consortium contract has been given via a Gateway 1 report which should identify the procedure and route for approvals for future orders/works being placed under the consortium agreement.

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 and 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.

3.5 Leasing contracts

Where approval is being sought to enter into a contract for the lease of an asset, written permission is also required from the finance director in most cases, as set out in the Financial Standing Orders. Confirmation that this has been obtained should be included in Gateway reports.

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) to identify who is the lead contract officer (LCO) – see 2.6 above
- b) to 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 4.4 below
- c) to follow appropriate quote/tender route. This will depend on the Estimated Contract Value and other factors – see 5 below
- d) to 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 4.5 below
- e) to 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 4.9 below.

4.1.2 Where there is a need to vary an existing contract, the process to be followed is set out in 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 or Extension to contract – Gateway 3 report.

More information can be found in 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 must include legal advice from the monitoring officer 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 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 4.9 below).

4.4.3 Gateway 1 reports should also include any details of procurement proposals that are different from the normal routes, including requests for exemptions to all or some of these CSOs (see 4.8 below) and requests to delegate powers to award the contract (see 4.5 below).

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) if;
 - 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 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)
 - ii) about the decision (e.g. in emergencies where no prior written report is needed – see 4.9 below)
- i) approval has been obtained in line with 4.4.3 above to a different decision process.

4.5.3 Requests to delegate the decision on the award of a contract which falls into 4.5.2 a) or 4.5.2 b) should be included within the Gateway 1 report and the delegation may only be to the leader or the relevant chief officer.

4.5.4 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 – Gateway 3

4.6.1 A decision to allow a contract Variation of more than £75,000 must only be made after consideration of a Gateway 3 report. It is recommended that such a report is also used for contract Variations with an estimated value of £75,000 or below. As a minimum, the LCO must keep a written record of decisions and action taken.

- 4.6.2** 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) the contract is a Corporate contract, but does not fall into a) above, 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
 - c) 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 monitoring officer 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
 - d) 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 4.9 below)
- e) approval has been obtained in line with 4.5.4 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, Gateway 2 and Gateway 3 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, where a decision relates to a procurement strategy, a contract award or a contract Variation with an estimated value over £100,000, also 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.

4.8 Exemptions

In the event that there appear to be exceptional circumstances which mean that the usual procedures set out in the CSOs 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.

4.9 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/operating viability of a property or other tangible or intangible asset. 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 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.

5.2 Contracts from £5,000 to £75,000

For all contracts where the estimated contract value is from £5,000 to £75,000, there is a requirement to take all reasonable steps to obtain at least three written quotes, including one from a local supplier where this is possible, unless the LCO decides that this will not secure value for money. In such cases, a Gateway 1 report must be completed to explain 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 corporate 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 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.
- 6.3 All tenders will be opened at the same time and place, after the closing date and time for receipt stated in the tender documents.
- 6.4 Tenders where the Estimated Contract Value is £500,000 or more must be returned to the monitoring officer 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.
- 6.5 A tender received by the council after the time and date specified in the invitation shall not be accepted or considered.
- 6.6 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, and CCRB or DCRB as appropriate to the contract.

7. Contract management and monitoring

- 7.1 The lead contract officer must ensure that systems are in place to manage and monitor contracts in respect of:
- a) compliance with specification and contract
 - b) performance
 - c) cost
 - d) user satisfaction
 - e) risk management.
- 7.2 Where the estimated contract value exceeds the relevant EU threshold, the lead contract officer should prepare a six-monthly monitoring report to the relevant DCRB.
- 7.3 Where the contract relates to a strategic procurement or is corporate in nature or has an estimated contract value of £500,000 or more and affects the budgets of more than one department, the lead contract officer should prepare an annual monitoring report to the CCRB.

8. Contract termination

- 8.1 A contract may only be terminated early or suspended by a chief officer, and only after obtaining approval from the monitoring officer and finance director; all such decisions will be advised in writing by the chief officer to the relevant member of the executive and executive member for resources.

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 legal services.
Contract Value	The total value of a contract as awarded (which may be different from the Estimated Contract Value), net of VAT, or if the contract is demand led, the actual amount of spend over the period of the contract to date plus the LCO's best estimate of the likely amount to be spent over the remaining life of the contract.
Corporate contract	A contract arranged by corporate 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.
Estimated Contract Value	The total value of a proposed contract including options to extend it (as estimated by the LCO on the basis of all relevant factors) net of VAT calculated for the proposed contract period, or, if for an undetermined period, 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	The Public Contracts Regulations 2006 or any amendment to or successor to those Regulations.
EU threshold	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 at http://thesource/SectionLandingPage.asp?id=22344&cat=1234 .
Key Decision	<p>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:</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 • Gateway 1 approvals in respect of a Strategic Procurement.
Lead contract officer (LCO)	The 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 corporate 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	The 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.

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Strategic Procurement	<p>Procurement where one or more of the following apply:</p> <ol style="list-style-type: none"> 1) Estimated Contract Value of £4 million or more for non-works and of £15 million or more for works 2) a significant change to previous service 3) possible externalisation or change in manner of delivery 4) significant transfer of assets or staff 5) political sensitivity 6) contract carrying a high level of risk.
Tender value	<p>The value of a 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.</p>
Urgent Payment	<p>A payment where delay would lead to significant demonstrable financial loss to the council (and where no breach of EU or domestic requirements would be occasioned).</p>
Variation	<p>A decision to extend the length or cost or amend the scope of a contract which was not anticipated or allowed for in the contract terms. This might 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 a change in volume, i.e. an increase in the volume usage of the contract that was not anticipated when the contract was awarded.</p>
Works Approved List	<p>A list of providers of works and works-related consultancy services which have all 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, maintained by corporate procurement. For further information about the use of Approved Lists, see the Procurement Guidelines or seek advice from corporate procurement.</p>

Audit and Governance Committee – Constitutional amendment arising from new treasury management responsibilities

Note: Changes to the constitution are shown as follows:

- Additions are shown as underlined
- As a result of the new clauses 4 and 21, Part 3L has been renumbered.

PART 3L: AUDIT AND GOVERNANCE COMMITTEE

Role and functions

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.
4. Scrutiny of the treasury management strategy and policies.

Audit activity

5. 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.
6. To consider reports dealing with the management and performance of the provider of internal audit services.
7. To consider reports from internal audit on agreed recommendations not implemented within a reasonable timescale.
8. To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
9. To consider specific reports as agreed with the external auditor.
10. To comment on the scope and depth of external audit work and to ensure it gives value for money.

11. To liaise with the Audit Commission over the appointment of the council's external auditor.
12. To commission work from internal and external audit.

Regulatory framework

13. To review any issue referred to it by the chief executive or a strategic director, or any council body.
14. To monitor the effective development and operation of risk management in the council.
15. To monitor the effective development and operation of corporate governance in the council and to agree actions necessary to ensure compliance with best practice.
16. To monitor council policies on 'whistle-blowing', the 'corporate anti-fraud strategy' and the council's complaints processes.
17. To oversee the production of and agree the council's annual governance statement, incorporating the statement on internal control.
18. To review the council's compliance with its own and other published standards and controls.

Accounts

19. To review and approve 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.
20. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Treasury management

21. To review and scrutinise the treasury management strategy and policies.

Annual report

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

Matters reserved for decision

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

**COUNCIL ASSEMBLY AGENDA DISTRIBUTION LIST (OPEN) (FULL LIST)
MUNICIPAL YEAR 2010-11**

NOTE: Original held by Constitutional Team; all amendments/queries to
Lesley John Tel: 020 7525 7228

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		Simon Hughes M.P.	
		Others	2
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		Mr. Mark Roelofsen	1
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