

Council Assembly Annual Meeting

Wednesday 18 May 2011
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

You have the right to request to inspect copies of minutes and reports on this agenda as well as the background documents used in the preparation of these reports.

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Date: 6 May 2011



Council Assembly (Annual Meeting)

Wednesday 18 May 2011
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 THE MAYOR	
	Note: Following the conclusion of this item there will be a five minute adjournment.	
2.	PRELIMINARY BUSINESS	
	2.1. ANNOUNCEMENTS FROM THE MAYOR, MEMBERS OF THE CABINET 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	
	2.5. MINUTES	
	To approve as a correct record the Open minutes of the council assembly meetings held on 6 April 2011 (circulated separately).	
3.	OTHER REPORTS	
	3.1. EXECUTIVE FUNCTIONS - 2011/12	1 - 3
	3.2. ESTABLISHMENT OF COMMITTEES, COMMUNITY COUNCILS AND OTHER CONSTITUTIONAL ISSUES 2011/12	4 - 38

Item No.	Title	Page No.
3.3.	NOMINATIONS TO LONDON COUNCILS COMMITTEES, GREATER LONDON EMPLOYMENT FORUM AND NOMINATION OF LEAD BOROUGH MEMBERS 2011/12	39 - 44
3.4.	CONSTITUTIONAL REVIEW 2011/12	45 - 97
3.5.	REVIEW OF COMMUNICATION PROTOCOL FOLLOWING THE PUBLICATION OF A NEW DRAFT CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY	98 - 110
3.6.	MEMBER ALLOWANCES SCHEME 2011/12	111 - 122

4. 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: 6 May 2011

Item No. 3.1	Classification: Open	Date: 18 May 2011	Meeting Name: Council Assembly (Annual Meeting)
Report title:		Executive Functions – 2011/12	
Ward(s) or groups affected:		All	
From:		Strategic Director of Communities, Law & Governance	

RECOMMENDATIONS

1. That council assembly consider the following executive issues for the coming municipal year 2011-12:
 - Notes the appointment by the leader of cabinet portfolio members
 - Notes the establishment and appointment of any cabinet committees
 - Notes the leader's report on the delegation of executive functions to the full cabinet, cabinet committees, individual cabinet 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.
2. That council assembly notes that on 19 May 2010 Councillor Peter John was appointed as leader of the council for a term of four years.

Appointment of the cabinet

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

Note:

 1. The leader will report on any changes to the cabinet and on individual portfolios.
 2. The leader can appoint between 2 and 9 members to form a cabinet.
 3. The leader must appoint a deputy leader.

Establishment and appointment of cabinet committees

4. That the leader reports on the establishment of any cabinet committees.

Note: The leader to establish any cabinet committees, set terms of reference and nominate cabinet members to serve on the committees, including appointing a chair and vice-chair.

Delegation of executive functions

5. That council assembly notes the leader's report on the delegation of executive functions to the full cabinet, cabinet committees, individual cabinet members, chief officers and community councils.

6. 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.

BACKGROUND INFORMATION

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

KEY ISSUES FOR CONSIDERATION

Leader and cabinet

8. 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 commenced immediately after the elections in May 2010.
9. In accordance with the agreed executive arrangements the leader was elected by the whole council for a period of four years at the first meeting of the council after the 2010 elections. 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
10. Under the executive "leader and cabinet" model there is 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 cabinet members, local committees or council officers. The cabinet is appointed by the leader.

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

11. Each year the elected leader must appoint their cabinet. 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.
12. The leader will be invited to report on the delegation of executive functions, appoint a deputy leader and appoint other cabinet members and determine their portfolios.
13. The leader will report on any further delegations including:
 - The extent of any authority delegated to cabinet members individually, including details of the limitation on their authority
 - The terms of reference and membership of any cabinet 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.

14. 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.

Appointments to panels, boards and forums

15. The cabinet 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 2010/11 Council Assembly May 2010 report	160 Tooley Street, London, SE1 2TZ	Ian Millichap 020 7525 7225

APPENDICES

Appendix	Title
None	

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	5 May 2011	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Strategic Director of Communities, Law & Governance	Yes	Yes (included in body of report)
Cabinet Member	No	No
Date final report sent to Constitutional Team	5 May 2011	

Item No. 3.2	Classification: Open	Date: 18 May 2011	Meeting Name: Council Assembly (Annual Meeting)
Report title:		Establishment of Committees, Community Councils and Other Constitutional Issues – 2011/12	
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 2011/12:
 - Proportionality/size and composition of committees
 - Establishing the overview and scrutiny committee
 - Establishing a licensing committee
 - Establishing the community councils
 - Appointment of chairs and vice chairs
 - Establishing a standards committee
 - Establishing the constitutional steering panel
 - Establishing the voluntary bodies appointment panel
 - Agree dates of council assembly meetings for 2011/12
 - Appointments to Local Government Association General Assembly
 - Urgency committee
2. That council assembly notes the appointment of political group leaders, deputies and whips (see Appendix 1).

Proportionality/size and composition of council committees

3. That the size and composition of the council's regulatory and other committees be established in accordance with the number of seats each political group has on the council as a whole – this is known as “proportionality”.

The table below is based on the assumption that the same committees are established in 2011/12 as existed in 2010/11.

Committee	Total	Lab	Lib Dem	Con
Committee 1 Appointments Committee	7	4	3	0
Committee 2 Planning Committee	7	4	3	0
Committee 3 Disciplinary Appeals Committee*	9	5	4	0
Committee 4 Audit and Governance Committee	5	3	1	1

Committee	Total	Lab	Lib Dem	Con
Committee 5 Corporate Parenting Committee	7	4	3	0
Total	35	20	14	1

* See recommendations 5 and 6 below.

Notes: 1. *The size and composition of the council's regulatory and other committees known as "ordinary committees" is set out above. This is based on a total number of 35 seats and includes the committees established in the 2010/11 municipal year. The proportionality is based on the total number of seats compared to the overall allocation of seats each political group has on the council. As the Labour Group has an overall majority on the council, it has been allocated a majority on each committee. The total number of seats on individual committees has had to be adjusted to ensure an overall proportionate allocation and ensure a majority on each committee.*

2. *Council assembly is exercising a matter reserved to it in Part 3A (4) of the constitution to establish committees. It is for council assembly to agree the committees it wishes to establish, to set the total number of seats and allocate them to the committees numbered 1 to 5 in the table above. In 2010/11 the council established appointments, planning, disciplinary appeals, audit and governance and corporate parenting committees.*

3. *At least one member of the cabinet shall serve on the appointments committee.*

4. *The constitution states the audit and governance committee will consist of:*

- *At least three councillors, and up to five councillors, including at least one member of each political group as defined by the Local Government and Housing Act 1989 Regulation 8 Local Government (Committees and Political Groups) Regulations 1990.*

No more than one member of the cabinet may be a member of the audit and governance committee and no cabinet member may chair the committee. No more than one member of the overview and scrutiny committee may be a member of the audit and governance committee and no member of the overview and scrutiny committee may chair the committee. In 2010/11 no members of the cabinet sat on the audit and governance committee and Councillor Toby Eckersley was the overview and scrutiny committee member on the committee.

4. That council assembly considers which of the committees are to be established in 2011/12.

5. That council assembly notes the decision at its meeting on 22 February 2011 to streamline the discretionary decision making framework of non statutory committees, noting paragraphs 31-32 on the future of the disciplinary appeals committee.

6. That the disciplinary appeals committee be established for a time limited period only to allow it to consider any appeals submitted by 18 May 2011.

Overview and scrutiny committee

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

Committee	Total	Labour	Lib Dem	Conservative
Overview and Scrutiny Committee (2010/11 allocation)	11 (11)	6 (6)	4 (4)	1 (1)

- Notes:
- 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 members who are not cabinet members should it be necessary to maintain proportionality, for example, where there are fewer chairs of scrutiny sub-committees than places on the overview and scrutiny committee.*
 - 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.*
 - No member of the cabinet shall serve on any scrutiny committee.*
 - In 2010/11 the overview and scrutiny committee comprised 11 members. The political composition of the committee: Labour 6, Liberal Democrat 4, and Conservative 1.*

Community councils

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

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

Licensing committee

9. That council assembly considers establishing a licensing committee with a total of 15 seats with the following allocation of seats:
- 8 Labour
 - 6 Liberal Democrat
 - 1 Conservative.

Note: In 2010/11 council assembly agreed to establish the committee on a proportionate basis comprising: 8 Labour, 6 Liberal Democrat and 1 Conservative.

Licensing sub-committee

10. That council assembly appoints a licensing sub-committee with delegated authority to hear licence applications including Licensing Act 2003, Gambling Act 2005, street trading and other licensing responsibilities granted by statute. The sub-committee to include members of the licensing committee with a quorum of three members.

Appointment of chairs and vice chairs

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

Committees

- Overview and Scrutiny Committee
- Planning committee
- Licensing committee
- Appointments committee
- Disciplinary appeal committee
- Audit and governance committee
- Corporate parenting committee*

Community councils

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

*Notes: *In 2010/11 the cabinet member responsible for children's services chaired the corporate parenting committee. Council assembly is asked to formally approve this appointment in 2011/12.*

All outstanding appointments will be referred to the first meeting of the respective committee or community council in the 2011/12 municipal year.

Standards committee

12. That council assembly notes the constitution states all political groups must be represented on the standards committee and it should comprise of at least four councillors and up to seven councillors. Council assembly notes the decision in previous years to allocate the councillor membership proportionately. In order to comply with its constitutional requirements, council assembly is requested to establish a standards committee comprising of six councillors. The seats to be allocated to political groups as follows:

- Labour 3 places
- Liberal Democrats 2 places
- Conservatives 1 place.

13. Political groups will be entitled to nominate reserves on the following basis:

- The number of reserves is equivalent to the number of places on the committee.

14. That in accordance with the constitution, the election of chair and vice chair takes place at the first meeting of the standards committee in the 2011-12 municipal year.

Notes: 1. *The constitution states the standards committee will consist of:*

- *At least four councillors, and up to seven councillors, including at least one member of each political group as defined by the Local Government and Housing Act 1989 Regulation 8 Local Government (Committees and Political Groups) Regulations 1990.*

2. *No more than one member of the cabinet may be a member of the standards committee.*

3. *Guidance from Standards for England states that standards committees need not reflect the political balance of the authority. This is it says because the standards committee should be above party politics and its members need to have the respect of the whole authority, regardless of the governing political party.*

Establishment of the constitutional steering panel

15. That council assembly agrees to establish a constitutional steering panel comprised of the whip and one other member from the Labour Group and the political whips of the other groups represented on the council, with the terms of reference set out in paragraph 55. Groups can nominate a reserve to attend in the absence of a representative.

16. That council assembly appoints a chair of the constitutional steering panel.

Establishment of voluntary bodies appointment panel

17. That council assembly establishes the voluntary bodies appointment panel (VBAP) with a composition of 3 Labour and 2 Liberal Democrat. 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 2010/11 the panel of five members, which was established by council assembly, comprised 3 Labour and 2 Liberal Democrat.*

Council assembly dates

18. 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 2011/12

- 6 July 2011

- 12 October 2011
- 30 November 2011
- 25 January 2012
- 22 February 2012 (Budget and council tax setting)
- 28 March 2012
- 23 May 2012 (Annual meeting).

Council calendar

19. That the calendar of council meetings for the 2011/12 municipal year ahead as shown at Appendix 5 be noted.

Appointments to Local Government Association General Assembly

20. That council assembly appoints three representatives and allocates five votes to the representatives to the LGA General Assembly (see Appendix 6).

Other appointments to joint committees/outside bodies

21. That council assembly notes the cabinet and other committees will make appointments to all other outside committees and bodies for the municipal year 2011/12 as required by part 3S of the constitution.

Urgency committee

22. That the role of the urgency committee between a municipal election and the annual meeting of council assembly be reviewed in light of the post-election period in 2010 and the new executive arrangements. Officers will report to the constitutional steering panel with proposals on future urgency arrangements.

BACKGROUND INFORMATION

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

KEY ISSUES FOR CONSIDERATION

Proportionality – the legal position

24. The Local Government and Housing Act 1989 covers the allocation of seats to political groups. It makes no provision for single independent councillors so they do not form part of the proportionality considerations.
25. Seats on committees and sub-committees must be allocated in accordance with the four principles of proportionality contained in sections 15, 16 and 17 of the Local Government and Housing Act 1989. There is a duty to give effect to the following principles, as far as is reasonably practicable:
- (i) That not all the seats on a committee or sub-committee are allocated to the same political group;
 - (ii) That the majority group must have the majority of seats on each committee or sub-committee;

Note: As the Labour Group has an overall majority on the council, this principle has been applied.

- (iii) Subject to (i) and (ii) above, it must be ensured that the proportion of each political group's seats of the total number of seats on "ordinary committees" reflects, as closely as possible, their proportion of seats on full council; and,

Notes: 1. The ordinary committees are appointments, planning, disciplinary appeals, audit and governance and corporate parenting. The total number of seats on these five committees must be allocated as proportionately as is reasonably practicable.

2. The licensing committee is appointed under the Licensing Act 2003 and the overview and scrutiny committee is appointed under section 21 of the Local Government Act 2000. Neither committee is an ordinary committee.

- (iv) Subject to (i) to (iii) above, the proportion of each political group's seats on each committee and sub-committee reflects as closely as possible their proportion of seats on full council.

Note: This rule applies to all committees, sub-committees and joint committees, except for licensing committee, standards committee and community councils.

Regulatory and other committees

26. The regulatory and other committees are the "ordinary committees" of the council. In 2010/11 the annual meeting established the following:

- Appointments committee
- Planning committee
- Disciplinary appeals committee
- Audit and governance committee
- Corporate parenting committee

27. The total number of seats on the ordinary committees is allocated and then divided between the committees to give each committee as proportionate an allocation as is possible within the overall total.

28. Council assembly can agree an allocation that is disproportionate, provided no member votes against this.

Appointments to seats

29. 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".

30. 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.

Disciplinary appeals committee

31. Council assembly on 22 February 2011 considered the policy and resources strategy 2011/12 revenue budget for the council. As part of this it was reported to council assembly that efficiencies and improved use of resources would include a rationalisation of constitutional support whilst maintaining essential services, including support for statutory bodies and functions. In 2011/12 the streamlining of the decision making framework has led to a review of the arrangements for the disciplinary appeals. It is proposed that although the disciplinary appeals committee will be reconstituted on 18 May 2011 it will only consider those appeals already submitted by that date. Future appeals will be heard under the management appeals process.
32. Due to the length of hearings which usually take most of the day it has on occasions become difficult to find convenient dates in the calendar when sufficient members are available; this has led to a number of late minute cancellations and postponements during the course of the year. The council disciplinary code determines that appeals must be established as independent and fair. Also they must be heard in a timely manner. Alternative arrangements for dismissal appeals will be put in place to meet these essential needs and will be considered to afford greater protection for the council in any subsequent litigation. The trade unions are being consulted about the proposals and early indications are positive for an uncontentious outcome. This reduction in the number of committees will lead to necessary savings in support that must be found in 2011/12 as part of the council's efficiencies and improved use of resources.

Audit and governance committee

33. The constitution states that the audit and governance committee shall consist of at least three councillors, and up to five councillors, including at least one member of each political group. Council assembly notes the decision last year to allocate the councillor membership proportionately as one of the "ordinary committees". In order to comply with its constitutional requirements, council assembly is recommended to establish a committee comprising of five councillors in 2011/12. The seats to be allocated to political groups as follows:
- Labour 3 places
 - Liberal Democrats 1 place
 - Conservatives 1 place.
34. CIPFA's guidance (Audit Committees Practical Guidance for Local Authorities, 2005) states that although audit committees are not mandatory "Audit committees are an essential element of good governance". It goes on to say "Good corporate governance requires independent, effective assurance about the adequacy of financial management and reporting. These functions are best delivered by an audit committee, independent from the executive and scrutiny functions."

Overview and scrutiny committee

35. 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 and it will consider the allocation of places on sub-committees including members who are not part of any political group.
36. Council assembly can agree an allocation that is disproportionate, provided no member votes against this. The requirements on the authority or committee to make appointments to seats in accordance with the wishes of a particular political group are set out in paragraphs 29-30 above.

Community councils

37. The role of community councils is to promote the involvement of local people and to bring decision making closer to local people. Community councils take decisions about local matters and at present have some responsibility for decisions in the following key areas: local planning, the cleaner, greener, safer capital programme, traffic management, appointment of local education authority governors to local nursery and primary schools and agreeing schemes for the community project bank. Community councils also offer an important mechanism for formal consultation on council wide policies and strategies.
38. Community councils are divided by geographical areas as follows:
- | | |
|-------------------------|----------------------|
| Bermondsey | Borough and Bankside |
| Camberwell | Dulwich |
| Nunhead and Peckham Rye | Peckham |
| Rotherhithe | Walworth |
39. The membership of community councils includes those councillors who are members for the electoral wards wholly or partly contained within the area of each community council. The community councils meet about every six weeks, with a separate planning meeting about every four weeks. Community councils meet in local venues around the borough.

Licensing committee

40. Section 6 of the Licensing Act 2003 requires that each licensing authority must establish a licensing committee of at least 10, but no more than 15 members of the authority. The power to establish the committee rests with council assembly. Council agreed in December 2004 that the licensing committee should comprise 15 members in order to achieve maximum flexibility. This was in response to the anticipated increased frequency of meetings under the new arrangements in particular during the transition stage.
41. There is no requirement in the Licensing Act 2003 that the licensing committee should be proportionate. Council assembly agreed in December 2004 to establish the current committee on a proportionate basis. Council assembly, in 2010/11, agreed the following allocation of seats: 8 Labour, 6 Liberal Democrat and 1 Conservative.
42. The Licensing Act 2003 makes no provision to appoint reserve members.
43. The licensing sub-committees consist of 3 members and a reserve and are called up on when required and membership is based on the allocation process agreed in December 2007.
44. The number of sub-committees per year has dropped from 59 in 2005/06 to an estimated number of 28 for 2010/11, a decline of 53%. During the same period the number of applications heard has fallen from 70 to 41, a fall of 41%. This reduction in the number of sub-committees is a result of the decline in the number of applications together with a more efficient use of the meetings by hearing more than one application at a meeting.
45. Analysis of member availability since July 2010 through to October 2010 and of committee meetings over the past year indicated that there were on average 8 members out of 15 available for licensing sub-committees in

August/September/October 2010 and for the 4 meetings of the committee held since October 2009, an average of 8 members were available/attended.

Appointment of chairs and vice chairs

46. With the exception of the standards committee, chairs and vice chairs may be appointed directly by council assembly or the appointments may be delegated to the first meeting of the relevant committee.
47. In the case of the corporate parenting committee, it is proposed that the cabinet member with responsibility for children's services be appointed chair. This is line with the decision of the annual meeting last year.

Standards committee

48. The council's constitution states that the standards committee must comprise of at least four councillors and up to seven councillors, including at least one member from each political group as defined by the Local Government and Housing Act 1989. Section 53(10) of the Local Government Act 2000 provides that the duty to allocate seats to political groups does not apply to a standards committee. The power to appoint members of the committee vests in council assembly and, in previous years, council assembly has appointed members on the basis of the number of seats allocated to each political group. Not more than one cabinet member may sit on a standards committee.
49. At least 25% of the committee's membership must be independent. In May 2009, council assembly agreed that the term of office for independent members be four years. Independent members can serve a maximum of two terms.
50. The following independent members will continue to serve on the standards committee after annual council:
 - Chris Gurney - until annual council May 2012 (1st term)
 - Peter Bibby - until annual council May 2012 (1st term)
 - Wendy Golding - until annual council May 2012 (2nd term)
 - Mark Roelofsen - until annual council May 2013 (2nd term)
 - Bola Ogun - until annual council May 2013 (2nd term).
51. The chair and vice chair are appointed at the first meeting of the committee in the new municipal year. The chair is elected from the independent members of the committee.

Reserve members

52. The council assembly, committee and overview and scrutiny procedure rules make provision for the appointment of reserve members to council committees and to scrutiny committees. There is no provision for reserves on the licensing committee or community councils.
53. Each political group can appoint reserve members. The number of reserve members a group can appoint is, with the exception of the overview and scrutiny committee and standards committee, one less than the number of places the group holds on the committee or sub-committee. If a political group holds only one place on a committee or sub-committee, that group may appoint one reserve member.

54. On the overview and scrutiny committee and the standards committee, the number of reserve members that each political group can nominate is equal to the number of places each group holds on the committee.

Establishment of the constitutional steering panel

55. The constitutional steering panel is responsible for reviewing and recommending amendments to the constitution. It is also responsible for making recommendations to council assembly for the award of the Honorary Freedom of the Borough and Honorary Aldermen and to recommend changes to the members' allowances scheme.
56. In 2010/11 council assembly established a panel with a membership comprising the group whip and one other member from the Labour Group and the whips of the other political groups represented on the council. In accordance with current practice the recommendation clarifies that groups can nominate a reserve to attend in the absence of a representative. Council assembly is also invited to appoint a chair of the constitutional steering panel.

Establishment of voluntary bodies appointment panel

57. 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

58. A calendar of council assembly meetings for the 2011/12 municipal year has been prepared and is shown in the recommendations. The proposed dates are based on the meetings held in 2010/11.
59. Council assembly is asked to formally agree these dates, in accordance with the relevant statutory provision.

Council calendar

60. A calendar of council meetings for the 2011/12 municipal year ahead has been prepared and is shown at Appendix 5.
61. The calendar is broadly based on a 6-week cycle; however the allocation of dates necessarily includes a number of deviations from the 6-week cycle to allow for school holidays, party conferences and other committed dates. Due to the business demands of the service, certain meetings will meet more frequently e.g. cabinet and planning. Cabinet procedure rule 2.1 requires that the cabinet should meet at least ten times per year, therefore cabinet meetings are scheduled in line with this requirement. Scrutiny sub-committees are indicated by a number in the draft calendar, pending their establishment by the overview and scrutiny committee.
62. In respect of meetings other than council assembly, this calendar is subject to amendments, additions and cancellations. The calendar is regularly updated throughout the year and is published on the council's website.

Appointments to Local Government Association (LGA) General Assembly

63. In 2010, due to increased financial constraints council assembly appointed two representatives to the Local Government Association (LGA) General Assembly and

allocated 5 votes amongst the two representatives. In 2010 council assembly appointed Councillors Peter John (3 votes) and Anood Al-Samerai (2 vote). In 2011 council assembly is asked to appoint three representatives and allocate 5 votes (see Appendix 6). The LGA encourages local authorities with three or four representatives to allocate at least one position and vote to a minority group representative.

Appointments to outside bodies and joint committees

64. 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.
65. The nomination of representatives to serve on the various London Councils committees and forums is normally the responsibility of the cabinet, as a local choice function. However, as the deadline for nominations is 1 June 2011 council assembly is asked to agree the nominations for the year 2011/12 (see separate report).

Urgency committee

66. The urgency committee, and sub-committees, function during an interim period between a municipal election and council assembly to exercise all the function of the council, that are not reserved by law to council assembly for decision, in cases where in the opinion of the chief executive it is necessary to act urgently. The urgency sub-committees consider planning and licensing applications and standards local filter issues. However, in light of the post-election period in 2010 and the new leader arrangements this is currently being reviewed. The next borough wide elections are in 2014. Officers will report to the constitutional steering panel with future proposals.

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 2QH	Ian Millichap 020 7525 7225

APPENDICES

Appendix	Title
Appendix 1	Political Group Leaders, Deputies and Whips <i>(To be circulated separately)</i>
Appendix 2	Regulatory and Other Committees Appointments 2011/12
Appendix 3	Proportionality – Ordinary Committees – Proposal based on committees established in 2010/11 <i>(To be circulated separately)</i>
Appendix 4	Overview and Scrutiny Committee and Community Council Appointments 2011/12
Appendix 5	Council Calendar 2011/12
Appendix 6	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	5 May 2011	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Strategic Director of Communities, Law & Governance	Yes	Yes (included in body of report)
Head of Human Resources	Yes	Yes (included in body of report)
Cabinet Member	No	No
Date final report sent to Constitutional Team	5 May 2011	

REGULATORY AND OTHER COMMITTEE APPOINTMENTS 2011/12

APPOINTMENTS COMMITTEE

Summary of Functions	Status	Membership	How often it Meets	Politically Proportionate
To determine appointments to posts of chief officers, chief finance officer and monitoring officer.	Committee	7 Councillors	Ad hoc	Yes (Statutory)

Allocation 2010/11 (No. of Reserves in brackets)	Proposed Allocation 2011/12 (No. of Reserves in brackets)	Appointments to Committees
Labour: 4 (3) Liberal Democrat: 3 (2) Conservative: 0 (1)	See main report.	Chair Vice chair

PLANNING COMMITTEE

Summary of Functions	Status	Membership	How often it Meets	Politically Proportionate
<ul style="list-style-type: none"> • To comment on local development framework documents in respect of all significant planning matters and make recommendations to the cabinet. • To consider and determine all the following applications: <ul style="list-style-type: none"> • strategic and major planning applications • designation of conservation areas including the adoption of conservation area character appraisals and detailed design guidance • any other planning responsibilities of the authority created by statute (and delegated to the committee). • To consider expenditure of Section 106 monies. • To comment on national and regional consultation documents proposing significant changes to strategic planning policies and make recommendations to the cabinet. 	Regulatory committee (Article 7)	7 Councillors	Monthly	Yes (Statutory)

Allocation 2010/11 (No. of Reserves in brackets)	Proposed Allocation 2011/12 (No. of Reserves in brackets)	Appointments to Committees
Labour: 4 (3) Liberal Democrat: 3 (2) Conservative: 0 (0)	See main report.	Chair Vice chair

DISCIPLINARY APPEALS COMMITTEE

Summary of Functions	Status	Membership	How often it Meets	Politically Proportionate
<ul style="list-style-type: none"> • To review dismissal decisions of capability/disciplinary panels on the application of the dismissed employee. • To review the operational procedures of the hearing of appeals and report to the cabinet if any changes are considered necessary. • To constitute the disciplinary appeals panel (safeguarding children and vulnerable adults). 	Committee	9 Councillors	Ad hoc	Yes (Statutory)

Allocation 2010/11 (No. of Reserves in brackets)	Proposed Allocation 2011/12 (No. of Reserves in brackets)	Appointments to Committees
Labour: 5 (4) Liberal Democrat: 4 (3) Conservative: 0 (0)	See main report.	Chair Vice chair

AUDIT AND GOVERNANCE COMMITTEE

Summary of Functions	Status	Membership	How often it Meets	Politically Proportionate
<ul style="list-style-type: none"> • To provide independent assurance of the adequacy of the council's governance arrangements. • To provide independent scrutiny of the council's financial and non-financial performance. • To provide an oversight of the financial reporting process. 	Committee	5 Councillors	Quarterly	Yes (Statutory)

Allocation 2010/11 (No. of Reserves in brackets)	Proposed Allocation 2011/12 (No. of Reserves in brackets)	Appointments to Committees
Labour: 3 (2) Liberal Democrat: 1 (1) Conservative: 1 (1)	See main report.	Chair Vice chair

CORPORATE PARENTING COMMITTEE

Summary of Functions	Status	Membership	How often it Meets	Politically Proportionate
To review and monitor the council's role as a corporate parent.	Committee	7 Councillors	Quarterly	Yes (Statutory)

Allocation 2010/11	Proposed Allocation 2011/12 (No. of Reserves in brackets)	Appointments to Committees
Labour: 4 (3) Liberal Democrat: 3 (2) Conservative: 0 (0)	See main report.	Chair: cabinet member for children's services Vice chair

STANDARDS COMMITTEE

Summary of Functions	Status	Membership	How often it Meets	Politically Proportionate
To ensure the promotion and maintenance of high standards of conduct by councillors, co-opted members and church representatives in order to observe the members' code of conduct. Overview of whistle-blowing, complaints, policy and reviewing consultations and the investigation of alleged breaches of the council's members' code of conduct.	Statutory committee	6 Councillors (Including at least one member of each political group, 5 Independent voting members).	Quarterly	Yes (Local agreement)

Allocation 2010/11 (No. of Reserves in brackets)	Proposed Allocation 2011/12 (No. of Reserves in brackets)	Appointments to Committees
Labour: 3 (3) Liberal Democrat: 2 (2) Conservative: 1 (1) Independent (voting) members: 5	See main report.	Chair (independent member) and Vice Chair appointed at first meeting.

LICENSING COMMITTEE

Summary of Functions	Status	Membership	How often it Meets	Politically Proportionate
<ul style="list-style-type: none"> • To approve the council's policies in respect of all licensing and registration matters except the licensing and gambling statements of policy. • To consider the designation of new sites for street trading • To determine and consider licensing and gambling applications for the grant, renewal, or transfer of licenses and registration of premises and other licensing responsibilities as delegated to the committee. <p>3 members plus 1 reserve sit on sub-committees as and when required.</p>	Regulatory committee (Article 7)	15 Councillors	Committee – 4-6 annually as required Sub-Committees – as required	Yes (Local Agreement)

Allocation 2010/11	Proposed Allocation 2011/12	Appointments to Committee
Labour: 8 Liberal Democrat: 6 Conservative: 1	Labour: 8 Liberal Democrat: 6 Conservative: 1	Chair Vice chair Note: There are no reserve members on this committee

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 cabinet members and can "call-in" decisions taken by the cabinet, individual cabinet members, community councils taking decisions on executive functions and key decisions taken by chief officers.</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	11 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 2010/11 (No. of Reserves in brackets)	Proposed Allocation 2011/12 (No. of Reserves in brackets)	Appointments to Committee
Labour: 6 (6) Liberal Democrat: 4 (4) Conservative: 1 (1)	See main report.	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 2010/11	Proposed Allocation 2011/12	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, Surrey Docks and Livesey Wards</p> <p>Walworth All councillors from Faraday, East Walworth and Newington Wards</p>	Unchanged	Chair Vice chair

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
May-11	Sun								
	1								
	2		BANK HOLIDAY						
	3								
	4								
	5								
	6								
	7								
	8								
	9	Liberal Democrat Group Labour Group Conservative Group							
	10			1900					
	11								
	12								
	13								
	14								
	15								
	16	Liberal Democrat Group Labour Group Conservative Group							
	17	Cabinet							
	18	Council Assembly (Annual Meeting)		1600					
	19			1900					
	20								
	21								
	22								
	23	Overview and Scrutiny Committee		1900					
	24								
	25	Community Councils Chairs and Vice chairs meeting		1900					
	26								
	27								
	28								
	29								
	30								
	31	Planning Committee							
Jun-11	Wed	Licensing Sub-Committee	BANK HOLIDAY HALF TERM BREAK	1900					
	2								
	3								
	4								
	5								
	6	Liberal Democrat Group Labour Group Conservative Group							

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Tue	7	Planning Committee		1900					
Wed	8	Peckham Community Council Dulwich Community Council		1900 1900					
Thur	9	Walworth Community Council - Planning Bermondsey Community Council		1900 1900					
Fri	10								
Sat	11								
Sun	12								
Mon	13	Overview & Scrutiny Committee		1900			Peter Roberts	peter.roberts@southwark.gov.uk	75254350
Tue	14								
Wed	15	Borough and Bankside Community Council Rotherhithe Community Council		1900 1900			Peter Roberts	peter.roberts@southwark.gov.uk	75254350
Thur	16	Nunhead and Peckham Rye Community Council Gamberwell Community Council							
Fri	17								
Sat	18								
Sun	19								
Mon	20	Gamberwell Community Council Planning Nunhead and Peckham Rye Community Council Planning Constitutional Steering Panel		1900 1900 1900			Lesley John	lesley.john@southwark.gov.uk	75207228
Tue	21	Cabinet		1600					
Wed	22	Bermondsey Community Council - Planning Walworth Community Council -		1900 1900					
Thur	23	Borough and Bankside - Planning Rotherhithe Community Council - Planning		1900 1900					
Fri	24								
Sat	25								
Sun	26								
Mon	27	Group Meetings							
Tue	28	Licensing Committee Scrutiny Sub-committee 1		1900 1900			Sean Usher	sean.usher@southwark.gov.uk	75257222
Wed	29	Scrutiny Sub-committee 2 Standards Committee		1900 1900					
Thur	30	Dulwich Community Council - Planning Peckham Community Council - Planning		1900 1900					
Fri	1								
Sat	2								
Sun	3								
Mon	4	Audit & Governance Committee		1900					
Tue	5	Planning Committee		1900			Kenny Uzodike	kenny.uzodike@southwark.gov.uk	75257236
Wed	6	Council Assembly		1900					

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Thur	7								
Fri	8								
Sat	9								
Sun	10								
Mon	11	Overview and Scrutiny Committee		1900			Peter Roberts	peter.roberts@southwark.gov.uk	75254350
Tue	12	Scrutiny Sub-Committee 3		1900					
Wed	13	Community Councils chair's and vice chair's		1900					
Thur	14								
Fri	15								
Sat	16								
Sun	17								
Mon	18	Scrutiny Sub-committee 4 Scrutiny Sub-committee 5		1900 1900			Peter Roberts	peter.roberts@southwark.gov.uk	75251453
Tue	19	Cabinet		1600			Paula Thornton	paula.thornton@southwark.gov.uk	75254395
Wed	20	Corporate Parenting Committee							
Thur	21	Gamberwell Community Council - Planning Nunhead and Peckham Rye Community Council - Planning		1900 1900					
Fri	22								
Sat	23								
Sun	24								
Mon	25	Rothehithe Community Council Planning Borough and Bankside Community Council - Planning		1900 1900					
Tue	26	Planning Committee		1900			Kenny Uzodike	kenny.uzodike@southwark.gov.uk	75257236
Wed	27	Walworth Community Council - Planning Bermondsey Community Council - Planning		1900 1900					
Thur	28	Peckham Community Council - Planning Dulwich Community Council - Planning		1900 1900					
Fri	29								
Sat	30								
Sun	31								
Aug-11	1								
Tue	2								
Wed	3								
Thur	4								
Fri	5								
Sat	6								
Sun	7								
Mon	8		SCHOOL BREAK						
Tue	9								
Wed	10								
Thur	11								
Fri	12								
Sat	13								
Sun	14								

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Mon	15								
Tue	16								
Wed	17								
Thur	18								
Fri	19								
Sat	20								
Sun	21								
Mon	22								
Tue	23								
Wed	24								
Thur	25								
Fri	26								
Sat	27								
Sun	28								
Mon	29		BANK HOLIDAY						
Tue	30								
Wed	31								
Sep-11	Thur 1	Camberwell Community Council - Planning Nunhead and Peckham Rye Community Council - Planning Rotherhithe Community Council - Planning		1900 1900 1900					
Fri	2								
Sat	3								
Sun	4								
Mon	5	Group Meetings							
Tue	6	Planning Committee		1900			Kenny Uzodike	kenny.uzodike@southwark.gov.uk	75257238
Wed	7	Watworth Community Council - Planning Bermondsey Community Council - Planning Peckham Community Council - Planning		1900 1900					
Thur	8	Dulwich Community Council - Planning Borough and Bankside Community Council - Planning		1900 1900					
Fri	9								
Sat	10								
Sun	11								
Mon	12	Overview & Scrutiny Committee		1900			Peter Roberts	peter.roberts@southwark.gov.uk	75254350
Tue	13	Bermondsey Community Council Borough and Bankside Community Council		1900 1900					
Wed	14	Watworth Community Council Rotherhithe Community Council		1900 1900					
Thur	15	Dulwich Community Council Nunhead and Peckham Rye Community Council		1900 1900					
Fri	16								
Sat	17		Liberal Democrat Party Conference						
Sun	18								
Mon	19								
Tue	20	Cabinet		1600					
Wed	21	Constitutional Steering Panel		1900					
Thur	22	Camberwell Community Council Peckham Community Council		1900 1900					

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Fri	23								
Sat	24								
Sun	25		Labour Party Conference						
Mon	26								
Tue	27	Audit and Governance Committee		1900					
Wed	28								
Thur	29								
Fri	30								
Oct-11 Sat	1								
Sun	2								
Mon	3	Group Meetings	Conservative Party Conference						
Tue	4	Gamberwell Community Council - Planning Nunhead and Peckham Rye Community Council - Planning		1900 1900					
Wed	5	Scrutiny Sub-committee 1 Scrutiny Sub-Committee 2		1900 1900					
Thur	6	Borough and Bankside Community Council - Planning Rotherhithe Community Council - Planning		1900 1900					
Fri	7								
Sat	8								
Sun	9								
Mon	10	Overview & Scrutiny Committee		1900					
Tue	11	Planning Committee Scrutiny Sub-committee 3		1900 1900					
Wed	12	Council Assembly		1900					
Thur	13	Walworth Community Council - Planning Bromdsey Community Council - Planning		1900 1900					
Fri	14								
Sat	15								
Sun	16								
Mon	17	Peckham Community Council - Planning Dulwich Community Council Planning		1900 1900					
Tue	18	Cabinet		1600			Paula Thornton	paula.thornton@southwark.gov.uk	75254395
Wed	19	Scrutiny Sub-committee 5 Scrutiny Sub-committee 4		1800 1900					
Thur	20								
Fri	21								
Sat	22								
Sun	23								
Mon	24								
Tue	25		HALF TERM						
Wed	26								

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Thur	27								
Fri	28								
Sat	29								
Sun	30								
Mon	31								
Nov-11	Tue 1	Planning Committee		1900			Kenny Uzodike	kenny.uzodike@southwark.gov.uk	75257236
Wed	2	Walworth Community Council Rotherhithe Community Council		1900					
Thur	3	Peckham Community Council Camberwell Community Council		1900 1900					
Fri	4								
Sat	5								
Sun	6								
Mon	7	Borough and Bankside Community Council Dulwich Community Council		1900 1900					
Tue	8	Corporate Parenting Committee Licensing Committee		1900 1900					
Wed	9	Standards Committee		1900					
Thur	10	Nunhead and Peckham Community Council Bermondsey community council		1900 1900			Everton Roberts	everton.roberts@southwark.gov.uk	75257221
Fri	11								
Sat	12								
Sun	13								
Mon	14	Overview & Scrutiny Committee		1900			Peter Roberts	peter.roberts@southwark.gov.uk	75254550
Tue	15	Audit and Governance Committee		1900					
Wed	16	Rotherhithe Community Council - Planning Borough and Bankside Community Council - Planning		1900 1900					
Thur	17	Camberwell Community Council - Planning Nunhead and Peckham Rye Community Council - Planning		1900 1900					
Fri	18								
Sat	19								
Sun	20								
Mon	21	Group Meetings		1900					
Tue	22	Cabinet		1600			Everton Roberts	everton.roberts@southwark.gov.uk	75257221
Wed	23	Walworth Community Council - Planning Bermondsey Community Council - Planning		1900 1900					
Thur	24	Dulwich Community Council - Planning Peckham Community Council - Planning		1900 1900					
Fri	25								
Sat	26								
Sun	27								
Mon	28	Scrutiny Sub-committee 1 Scrutiny Sub-committee 2		1900 1900					
Tue	29	Planning Committee Scrutiny Sub-committee 3		1900 1900			Kenny Uzodike	kenny.uzodike@southwark.gov.uk	75257236
Wed	30	Council Assembly		1900					

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Dec-11	Thur 1								
	Fri 2								
	Sat 3								
	Sun 4								
	Mon 5	Overview & Scrutiny Committee		1900			Peter Roberts	peter.roberts@southwark.gov.uk	75254350
	Tue 6	Community Councils chair's and vice chair's Scrutiny Sub-committee 4		1900					
				1900					
	Wed 7	Scrutiny Sub-committee 5		1900					
	Thur 8								
	Fri 9								
	Sat 10								
	Sun 11								
	Mon 12	Camberwell Community Council - Planning Nurhead and Peckham Rye Community Council - Planning		1900					
				1900					
	Tue 13	Cabinet		1600			Paula Thornton	paula.thornton@southwark.gov.uk	75254395
	Wed 14	Watworth Community Council- Planning Bermondsey Community Council - Planning		1900					
				1900					
	Thur 15	Rotherhithe Community Council - Planning Borough and Bankside Community Council - Planning		1900					
				1900					
	Fri 16								
	Sat 17								
	Sun 18								
	Mon 19	Peckham Community Council - Planning Dulwich Community Council - Planning	SCHOOL HOLIDAYS	1900					
				1900					
	Tue 20	Planning Committee		1900			Kenny Uzodike	kenny.uzodike@southwark.gov.uk	75257236
	Wed 21								
	Thur 22								
	Fri 23								
	Sat 24								
	Sun 25								
	Mon 26								
	Tue 27								
	Wed 28	Licensing Sub-Committee		1000					
	Thur 29								
	Fri 30								
	Sat 31								
Jan-12	Sun 1								
	Mon 2								
	Tue 3								
	Wed 4								
	Thur 5								
	Fri 6								
	Sat 7								
	Sun 8								
	Mon 9	Audit and Governance Committee		1900					
	Tue 10	Camberwell Community Council Peckham Community Council		1900					
				1900					
	Wed 11	Rotherhithe Community Council Borough and Bankside Community Council		1900					
				1900					

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Thur	12	Dulwich Community Council Nunhead and Peckham Rye Community Council		1900 1900					
Fri	13								
Sat	14								
Sun	15								
Mon	16	Liberal Democrat Group Labour Group Conservative Group							
Tue	17	Planning Committee Overview and Scrutiny Committee		1900 1900					
Wed	18	Bermondsey Community Council Walworth Community Council		1900 1900					
Thur	19	Camberwell Community Council - Planning Nunhead and Peckham Rye Community Council- Planning Rotherhithe Community Council Planning		1900 1900 1900					
Fri	20								
Sat	21								
Sun	22								
Mon	23	Peckham Community Council Planning Walworth Community Council - Planning Bermondsey Community Council - Planning		1900 1900 1900					
Tue	24	Cabinet		1600			Everton Roberts	evert.roberts@southwark.gov.uk	75257221
Wed	25	Council Assembly (Ordinary Meeting)		1900	CC		Lesley John	lesley.john@southwark.gov.uk	75257228
Thur	26	Borough and Benkside Community Council - Planning Dulwich Community Council - Planning		1900 1900					
Fri	27								
Sat	28								
Sun	29								
Mon	30	Scrutiny Sub-committee 3		1900					
Tue	31	Planning Committee		1900					
Feb-12	Wed 1	Scrutiny Sub-committee 1 Scrutiny Sub-committee 2		1900 1900					
Thur	2								
Fri	3								
Sat	4								
Sun	5								
Mon	6	Overview & Scrutiny Committee		1900 1900			Peter Roberts	peter.roberts@southwark.gov.uk	75254350
Tue	7	Cabinet		1600			Paula Thornton	paula.thornton@southwark.gov.uk	75254395
Wed	8	Scrutiny Sub-committee 4 Scrutiny Sub-committee 5		1900 1900					
Thur	9	Community Councils chair's and vice chair's							
Fri	10								
Sat	11								
Sun	12								
Mon	13	Liberal Democrat Group	HALF TERM						

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
		Labour Group Conservative Group							
Tue	14								
Wed	15	Gamberwell Community Council - Planning Nunhead and Peckham Rye Community Council- Planning Rotherhithe Community Council Planning		1900 1900 1900					
Thur	16	Peckham Community Council Planning Walworth Community Council - Planning Bermondsey Community Council - Planning		1900 1900 1900					
Fri	17								
Sat	18								
Sun	19								
Mon	20	Borough and Bankside Community Council - Planning Dulwich Community Council - Planning		1900 1900					
Tue	21	Corporate Parenting Committee							
Wed	22	Council Assembly (Budget Setting)		1900					
Thur	23								
Fri	24								
Sat	25								
Sun	26								
Mon	27	Constitutional Steering Panel		1900					
Tue	28	Planning Committee		1900					
Wed	29	Audit and Governance Committee		1900					
Mar-12	Thur 1	Dulwich Community Council Peckham Community Council		1900 1900					
Fri	2								
Sat	3								
Sun	4								
Mon	5	Standards Committee Scrutiny Sub-committee 1		1900 1900					
Tue	6	Gamberwell Community Council Nunhead and Peckham Rye Community Council		1900 1900					
Wed	7	Scrutiny Sub-committee 2 Scrutiny Sub-committee 3		1900 1900					
Thur	8	Walworth Community Council Bermondsey Community Council		1900 1900					
Fri	9								
Sat	10								
Sun	11								
Mon	12	Overview & Scrutiny Committee		1900			Peter Roberts	peter.roberts@southwark.gov.uk	75254350
Tue	13	Rotherhithe Community Council		1900					

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
		Borough and Bankside Community Council		1900					
Wed	14	Scrutiny Sub-committee 4 Scrutiny Sub-committee 5		1900 1900					
Thur	15	Gamberwell Community Council - Planning Nunhead and Peckham Rye Community Council - Planning		1900 1900					
Fri	16								
Sat	17								
Sun	18								
Mon	19	Liberal Democrat Group Labour Group Conservative Group							
Tue	20	Cabinet		1600			Everton Roberts	everton.roberts@southwark.gov.uk	75257221
Wed	21	Walworth Community Council Planning Bermondsey Community Council Planning		1900 1900					
Thur	22	Dulwich Community Council Planning Peckham Community Council Planning		1900 1900					
Fri	23								
Sat	24								
Sun	25								
Mon	26								
Tue	27	Planning Committee		1900					
Wed	28	Council Assembly (Ordinary Meeting)		1900					
Thur	29								
Fri	30								
Sat	31								
Apr-12	Sun 1		SCHOOL EASTER HOLIDAYS						
Mon	2								
Tue	3								
Wed	4	Borough and Bankside Community Council Planning Rotherhithe Community Council Planning		1900 1900					
Thur	5								
Fri	6		GOOD FRIDAY						
Sat	7		EASTER SUNDAY						
Sun	8		EASTER MONDAY						
Mon	9								
Tue	10								
Wed	11	Gamberwell Community Council - Planning Nunhead and Peckham Rye Community Council - Planning Rotherhithe Community Council Planning		1900 1900 1900					
Thur	12	Peckham Community Council Planning Walworth Community Council - Planning Dulwich Community Council - Planning		1900 1900 1900					
Fri	13								
Sat	14								
Sun	15								

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Mon	16	Overview & Scrutiny Committee Borough and Binkside Community Council - Planning Bermondsey Community Council - Planning		1900 1900 1900					
Tue	17	Cabinet		1600					
Wed	18	Walworth Community Council Rotherhithe Community Council		1900 1900					
Thur	19	Dulwich Community Council Peckham Community Council		1900 1900					
Fri	20								
Sat	21								
Sun	22								
Mon	23	Corporate Parenting Committee Scrutiny Sub-committee 2 Scrutiny Sub-committee 3		1900 1900					
Tue	24	Planning Committee Scrutiny Sub-Committee 1		1900 1900					
Wed	25	Borough and Binkside Community Council Camberwell Community Council		1900 1900					
Thur	26	Nunhead and Peckham Rye Community Council Bermondsey Community Council		1900 1900					
Fri	27								
Sat	28								
Sun	29								
Mon	30								
May-12	Tue 1	Audit and Governance Committee		1900					
Wed	2	Scrutiny Sub-committee 4 Scrutiny Sub-committee 5		1900 1900					
Thur	3	Camberwell Community Council Planning Nunhead and Peckham Community Council Planning Walworth Community Council Planning		1900 1900 1900					
Fri	4								
Sat	5								
Sun	6								
Mon	7		BANK HOLIDAY						
Tue	8	Planning Committee Overview & Scrutiny Committee		1900 1900					
Wed	9	Rotherhithe Community Council - Planning Borough and Binkside Community Council - Planning Bermondsey Community Council Planning		1900 1900 1900					
Thur	10	Dulwich Community Council - Planning Peckham Community Council - Planning		1900 1900					
Fri	11								
Sat	12								
Sun	13								
Mon	14	Liberal Democrat Group Labour Group Conservative Group							
Tue	15	Cabinet		1600					
Wed	16								
Thur	17								

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Fri	18								
Sat	19								
Sun	20								
Mon	21	Group Meetings							
Tue	22								
Wed	23	Council Assembly (Annual Meeting)		1900					
Thur	24								
Fri	25								
Sat	26								
Sun	27								
Mon	28								
Tue	29								
Wed	30								
Thur	31								
Jun-12	Fri								
	Sat								
	Sun								
	Mon		BANK HOLIDAY						
	Tue		BANK HOLIDAY						
	Wed								
	Thur								
	Fri								
	Sat								
	Sun								
	Mon								
	Tue			1900					
	Wed	Planning Committee							
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APPENDIX 6

APPOINTMENT TO LOCAL GOVERNMENT ASSOCIATION (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	28 June 2011 (annual meeting) 29 & 30 June 2011 (annual conference)	Up to three representatives with an allocation of 5 votes. (2010-11: Two representatives - Councillors Peter John (3 votes) Anood Al-Samerai (2 votes).	The Local Government Group advises that votes can be allocated amongst the representatives as the local authority sees fit. The Local Government Group encourages local authorities entitled to three or four 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. 3.3	Classification: Open	Date: 18 May 2011	Meeting Name: Council Assembly
Report title:		Nominations to London Councils Committees, Greater London Employment Forum and nomination of lead borough members 2011/12	
Ward(s) or groups affected:		None	
From:		Strategic Director of Communities, Law & Governance	

RECOMMENDATIONS

1. That council assembly consider and agree nominations to the London Councils committees and Greater London Employment Forum, details listed in Appendix 1 of the report.
2. That council assembly nominate lead borough members/relevant portfolio holders for the areas listed in paragraph 7 of the report.

BACKGROUND INFORMATION

3. The council nominates representatives to serve on the London Councils committees on an annual basis. The nomination of representatives to the London Councils committees and forums fall within the terms of reference of the cabinet. However, because the deadline for the submission of nominations to London Councils is 1 June 2011, council assembly is being asked to agree the nominations for 2011/12 in order to meet the deadline set by London Councils.

KEY ISSUES FOR CONSIDERATION

Joint committees

4. 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.
5. 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)

6. Council assembly may only nominate cabinet members as representatives or deputies to the 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. London Councils advise that the deputies should have some knowledge of the policy area concerned, can be kept informed of the member body's activities and be able to act as substitute if the principal nominee is unable to attend a meeting.

Forums / Borough lead members

7. The London Councils have discontinued forums with the exception of the Greater London Employment Forum. However the London Councils lead members have a need to consult and liaise with relevant borough lead members from time to time on matters of major importance and are therefore seeking to identify borough lead member / relevant portfolio holders (by way of nominations) for the following areas:
- Children and Young People
 - Housing
 - Health and Adult Services
 - Culture, Tourism and 2012
 - Crime and Public Protection
 - Economic Development

London Councils Limited

8. The council is required to appoint a representative to the company, London Councils Limited. The London Councils advise that the borough's representative on the Leaders' Committee is normally appointed unless a council specifically indicates otherwise.
9. All formal London Councils committee and forum meetings are held during the day on weekdays.

Legal implications

10. There are no specific legal implications.

Consultation

11. The group whips were provided with a copy of the London Councils circular relating to the nominations on 28 April 2011.

Community impact statement

12. The council is being invited to make nominations to the London Councils committees, Greater London Employment Forum and nominate borough lead members. The nominations process has no direct impact on the community.

BACKGROUND DOCUMENTS

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

APPENDICES

No.	Title
Appendix 1	Nominations to London Councils Committees and Forum – 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	3 May 2011	
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		3 May 2011

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

Name	Remit	Member Status	No. of Places to be filled	Notes
<p>London Councils Leaders' Committee (S101 Joint Committee)</p>	<p>The London Councils main decision-making forum. It sets policy and takes decisions on the latest developments affecting London local government.</p>	<p>Council Representative</p>	<p>1 representative and up to 2 deputies</p>	<p>Representative usually Leader of the Council, but another cabinet member can be nominated.</p> <p>Representative and deputies must be members of the cabinet.</p>
<p>London Councils Transport and Environment Committee (Associated S101 Joint Committee)</p>	<p>The Transport and Environment Committee (TEC), provides a range of operational services such as parking and traffic appeals, the London night-time and weekend lorry ban, the Freedom Pass and Taxicard schemes. TEC aims to ensure that London boroughs' concerns and best practice are taken fully into account in the development and implementation of the whole range of transport and environment policies generated by government departments, the European Union, and the Mayor of London. The committee deals with a wide array of issues, including congestion charging, CCTV camera traffic enforcement, waste, air quality and public protection.</p>	<p>Council Representative</p>	<p>1 representative and up to 4 deputies</p>	<p>Representative usually lead cabinet member for transport and / or environmental issues.</p> <p>Representative and deputies must be members of the cabinet.</p>

Name	Remit	Member Status	No. of Places to be filled	Notes
London Councils Grants Committee (Associated Joint Committee)	London Councils invests in voluntary organisations on behalf of all the London councils. They fund organisations, with individual grants ranging from between £5,000 and £500,000. All of the grants made seek to improve the lives of people who live, work and visit London. London Councils funding is provided by the London Boroughs Grants Scheme. It enables London's local authorities to fund voluntary organisations working in more than one borough, sub-regionally or across the capital to meet the needs of London as a whole. The operation of the scheme is managed by the grants committee which comprises 33 representative members, one from each of London's local councils.	Council Representative	1 representative and up to 4 deputies	Representative preferably lead cabinet member with responsibility for partnerships and the voluntary sector. Representative and deputies must be members of the cabinet.
Greater London Employment Forum	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.	Council Representative	1 representative and 1 deputy	Representative usually lead cabinet member for human resources issues.
London	Each borough is required to appoint a representative	Council	1 nomination	The borough's

Name	Remit	Member Status	No. of Places to be filled	Notes
Councils Limited	to the company, London Councils Limited.	Representative		representative on the Leaders Committee is normally appointed and will be unless a borough specifically indicates otherwise.

Item No. 3.4	Classification: Open	Date: 18 May 2011	Meeting Name: Council Assembly (Annual Meeting)
Report title:		Constitutional Review 2011/12	
Ward(s) or groups affected:		All	
From:		Strategic Director of Communities, Law & Governance	

RECOMMENDATIONS

That the constitutional steering panel recommends that the following constitutional changes be adopted by council assembly:

Article 6: Deputy cabinet members

1. That the necessary constitutional changes as set out in paragraphs 28 and 30 be agreed to allow the leader to designate deputy cabinet members to work with cabinet members on specific tasks.
2. That if recommendation 1 is agreed, the provisions in Article 6.4 in “Other cabinet members” relating to assistant cabinet members be deleted as the role will no longer be necessary since deputies would be able to act (see paragraph 29).

Article 6: Delegation of executive functions

3. That in line with the existing strong leader arrangements, it be agreed that Article 6.8 on “Delegations by the leader” be amended to include reference to the leader’s discretion during the course of the year to notify the monitoring officer of any changes to executive scheme of delegation (see paragraph 32).

Part 3: Executive scheme of delegations

4. That it be noted that any changes to the executive scheme of delegation reported as part of the leader’s address to council assembly on cabinet member responsibilities, portfolios and other delegations be noted and formally incorporated into the constitution for 2011/12.
5. That the changes to the executive scheme of delegation set out in paragraphs 35-36 be noted.

Part 3F: Planning Committee – Policy documents

6. That the change to the matters reserved to the planning committee as set out in paragraph 40 be agreed.

Part 3G: Licensing Committee – Street trading and marketing

7. That council assembly adopts the changed legislative framework governing Southwark's Street trading activities with 5 or more pitches from London Local Authorities Act 1990 as amended to Part III of the Food Act 1984 from this date, and that the full operational change comes into effect following implementation of necessary byelaws. These byelaws are necessary to ensure that the trading licence conditions and other market regulations are observed, following the change from London Local Authorities Act 1990 as amended.
8. That Part 3G on the licensing committee be amended, as set out in paragraph 44, in respect to market and street trading matters to reflect the change to the legislative framework. This change in authority will also come into effect following implementation of necessary byelaws as outlined in paragraph 7.

Part 3M: Standards Committee – Withholding of allowances

9. That a new clause on the withholding of allowances be included in the roles and functions of the standards committee as set out in paragraph 46.

Council Assembly Procedure Rules

10. That procedure rules on the themed debate be amended by deleting the reference to members' questions from council assembly procedure rule 2.7(3), 3rd bullet point (see paragraph 51). Rule 2.7(9) on motions and questions would also be amended to remove reference to questions.

Deputations - Deadlines

11. That the deadline for deputations for cabinet, community councils and all committees be unified at three clear working days (see paragraphs 52-53).

Contract Standing Orders

12. That the changes to contract standing orders as described in paragraph 55 and as set out in full in Appendix 3 of this report be agreed.

Financial Standing Orders

13. That the changes to financial standing orders as described in paragraph 58 and as set out in full in Appendix 4 of this report be agreed.

Consequential changes

14. That officers be authorised to undertake any consequential and cross referencing changes arising from changes to the constitution (see paragraph 60).

BACKGROUND INFORMATION

15. During the course of 2010/11 council assembly agreed a number of constitutional changes including:
 - Introduction of a petitions scheme
 - Updating the member and officer protocol
 - Updating the communications protocol

- Review of the council assembly procedure rules arising from the recommendations of the Democracy Commission

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.

16. 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.
17. All constitutional changes are considered by constitutional steering panel, which then recommends changes to council assembly. Changes to the constitution are generally agreed by council assembly, unless another body or individual is authorised to do so – see Article 1.15. All the changes in this report were considered by the constitutional steering panel at its meeting on 3 May 2011. A summary of the recommendations of the constitutional steering panel, including additional notes from political groups, is set out in Appendix 5.

KEY ISSUES FOR CONSIDERATION

Introduction

18. The constitutional changes in this report focus on those specific issues identified over the course of the year, including the impact of any government announcements. As a number of issues have been considered during the course of the year this is a shorter report than normal. The constitutional steering panel on 3 May 2011 also considered proposals submitted from the political groups, which are summarised in Appendix 5 together with any recommendation of the panel.
19. 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 ~~strikethrough~~).

Community impact statement

20. 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.

ARTICLE 6 – CABINET

Deputy cabinet members

21. The meeting of the council assembly (annual meeting) on 19 May 2010 asked that a new role of deputy cabinet member be considered to work with cabinet members on specific tasks. This report considers the constitutional changes necessary to bring in this new role. Other aspects of the proposal relating to allowances are considered in a separate report on the members' allowance scheme.
22. The provision of deputies should enable a more robust succession management arrangement whereby other members would gain experience of the work of the cabinet.
23. The main features of the new role of deputy cabinet members would include:
 - Be appointed by the leader using his “strong leader” responsibilities
 - Hold responsibility for specific tasks designated by the leader, following consultation with the monitoring officer
 - Deputies would be able to attend cabinet meetings but could not take part in any formal decision making
 - Access to information would be on a “need to know” basis only and be proportionate to their defined role or duties
 - Deputies could serve on scrutiny committees or sub-committees but would not be permitted to scrutinise issues relating to their duties.
 - Deputies could be called to account when acting in their official capacity.
24. The constitutional steering panel considered whether it would be appropriate to make any recommendations about which members could act as deputies. The panel took the view that deputies should not be able to hold the chair of a committee or sub-committee which takes decisions or scrutinises matters within the individual's defined role as a deputy. The panel also recommended that because of the nature of decision making on the licensing and planning committees, the chairs of these committees should be excluded from acting as deputies. These recommendations have been incorporated into the constitutional change set out below in paragraph 28. The constitutional steering panel also considered the communication protocol which designates key spokespersons including leader, deputy leader and cabinet members within their portfolios. The panel took the view that the definition of key spokespersons should not include deputy cabinet members within the specific tasks and duties allocated by the leader. However the panel noted that it may wish to review this arrangement in the future.
25. The duties and responsibilities of deputy cabinet members would include the following:

Duties and Responsibilities

 - To assist cabinet members with specific aspects of their portfolio
 - To contribute to the process of setting policy direction, development and review by assisting cabinet members to develop specific aspects of their individual portfolio

- To represent the relevant cabinet member at non-decision making meetings
 - To assist cabinet members in the drafting and preparation of reports, responses to questions and other work related to the cabinet deputy's duties
 - To promote the core values, corporate priorities and objectives of the council.
26. It is anticipated that deputies would be subject to the same clearance requirements as cabinet members i.e. criminal records checks for deputies whose responsibilities cover children or vulnerable adults.
27. Based on the main features for the role set out above and the considerations of the constitutional steering panel, a recommended clause for Article 6 has being drafted. This clause is consistent with the strong leader arrangements to be found in the Southwark constitution.
28. The recommendation is to insert a new clause 6.10:

6.10 Deputy Cabinet Members

Other members of the council may, from time to time, be designated by the leader as deputy cabinet members to work with cabinet members on specific tasks or duties. Such a deputy cabinet member will not be a cabinet member and may not exercise any delegated powers given to the cabinet member, but may work closely with the relevant cabinet member. Whilst a deputy cabinet member may be a member of a committee, scrutiny committee or scrutiny sub-committee, he or she will not be permitted to take decisions on or scrutinise any of their own deputy cabinet member tasks or duties. Deputy cabinet members shall not be the chair of a committee or sub-committee which takes decisions or scrutinises matters relating to his/her tasks or duties. The chairs of the licensing and planning committees shall not be deputies.

The leader shall notify the monitoring officer of the appointment of a deputy, including the responsibilities allocated and the period for which the deputy will act.

29. It is also recommended that if council assembly agrees to the new role of deputy cabinet members, that the provisions in Article 6.4 in "Other cabinet members" relating to assistant cabinet members would be deleted as no longer necessary since deputies would always be able to act instead.
30. Currently the committee procedure rules exclude more than one member of the cabinet from sitting on standards committee or audit and governance committee. If the appointment of deputy cabinet members was agreed, the constitution would also need amendment to exclude more than one member of the cabinet or deputy from sitting on standards committee or audit and governance committee. The recommended consequential changes would be to the following procedure rules:
- Standards Committee – Committee Procedure Rule 7.4
 - Audit and Governance Committee – Committee Procedure Rule 6.2

Delegation of executive functions

31. During the course of the year, under the strong leader arrangements the leader has the discretion to notify the monitoring officer of any changes to executive scheme of delegation.
32. It is recommended that this arrangement be included in the constitution to provide transparency. The following additional words would be inserted at the end of article 6.8 on "Delegations by the leader" to read as follows:

During the course of the year the leader may provide written notice of any change to the delegation of executive functions to the monitoring officer, who shall circulate a formal notification to all members.

As a consequential change a summary of the strong leader arrangements would be added the introduction for "Part 3: Who takes decisions?" page of the constitution.

PART 3 – EXECUTIVE SCHEME OF DELEGATIONS

33. Any changes to the executive scheme of delegation in Part 3 of the constitution will be reported as part of the leader's address to council assembly on cabinet member responsibilities, portfolios and other delegations. These changes will be formally incorporated into the constitution for 2011/12.
34. Article 1.5 (b) provides for the leader to agree any executive function or local choice function to be discharged by the cabinet.

Individual cabinet members

35. The following general additions to the list of decisions reserved to cabinet members (Part 3D of constitution, pages 40-41) reflect the types of decision which during the last year have been delegated to cabinet members:
 - Agree reports when there is any significant changes associated with the delivery of an agreed plan
 - Sign off any plan or strategy or programme when completed or take decisions where no further significant cabinet approval is required
 - Monitor the effectiveness and appropriateness of the plan or strategy or programme within the portfolio holders responsibility and agree any necessary changes.
36. There is one specific change relating to the cabinet member with portfolio responsibility for transport on decision on controlled parking zones and some traffic orders decisions which are of a strategic nature:
 - a) Decision to implement a new controlled parking zone (CPZ)
 - b) Determination of objections to traffic orders that are of a strategic nature
 - c) Decision to make strategic changes to an existing CPZ (i.e. changing the hours/days of operation).

PART 3F: PLANNING COMMITTEE – POLICY DOCUMENTS

37. The planning committee currently considers a range of planning policy documents including the local development framework and supplementary planning documents. The constitution states that planning policy documents need to go to planning committee, then cabinet and then (in the case of local development framework documents, which form part of the policy framework) to council assembly. Under the existing arrangements the planning committee considers successive drafts including all consultation versions of these documents. The recommendations and comments of the planning committee are then submitted to the cabinet for consideration. The relevant clauses in the constitution are set out in Part 3F: clauses 7 and 8.
38. This process has been reviewed in line with the new executive arrangements to ensure that development of policy is “owned” by the cabinet and led by the relevant cabinet member. As part of this planning committee would be consulted on the documents, but as part of the consultation process, rather than have planning committee providing comments prior to cabinet having seen or approved all of the policies as currently happens.
39. The recommended changes will assist in streamlining the time and resources required to update planning policy documents. Currently documents have to be scheduled for planning committee in advance of the decision-making cabinet which complicates and lengthens the process for updating these documents. On occasions this has led to special planning committee meetings having to be arranged outside of the council’s calendar.
40. The recommended revised clauses in Part 3F of the constitution would read:
 7. To comment on ~~the successive~~ drafts of the local development framework during their consultation periods and make recommendations to the cabinet, as appropriate.
 8. To comment on draft supplementary planning documents during their consultation periods and make recommendations to the cabinet, as appropriate.

PART 3G: LICENSING COMMITTEE – STREET TRADING AND MARKETS

41. This section of the constitutional review arises from the changes to the legislative framework governing Southwark’s Street trading activities with 5 or more pitches from the London Local Authorities Act 1990 as amended to Part III of the Food Act 1984. The cabinet considered a report on this subject on 25 January 2011 and agreed that a report be submitted to council assembly. The cabinet recommended the approval of changes to the legislative framework and the delegated decisions in respect to market and street trading matters are amended to reflect the change to the legislative framework, but remain with the licensing committee.
42. Council assembly is requested to adopt the change to the legislative framework and approve the constitutional changes. Following the agreement of the recommendations in this report, draft byelaws will be submitted by officers to the Department for Communities and Local Government for approval; officers will then have to return to council assembly to get them formally adopted. The adoption of byelaws is specified in the constitution as a matter reserved to

council assembly for decision. The new legislative framework and constitutional change will come into effect following adoption and implementation of the byelaws; this is expected to be in October 2011.

43. It was reported to cabinet that it was considered necessary to put this legislative change in place to ensure that Southwark Markets are able to compete with private markets and protect the existing markets from further private encroachment. Background information on the changes, consultation and the legislation is set out in Appendix 1. A copy of the draft byelaws are attached as Appendix 2.
44. Some specific changes to Part 3G of the constitution on licensing committee and its sub-committees are required to accommodate the new legislative framework for markets. The recommended revised clauses to the role and function, and matters reserved for decision are as follows:

Role and functions

7. To consider the designation of new sites for street trading and markets.

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

24. New designations for sites for street trading and markets.
25. Revocation of street trading licences and markets.

PART 3M: STANDARDS COMMITTEE – WITHHOLDING OF ALLOWANCES

45. Standards committee currently can withdraw allowances in the event of a member being suspended. There is no provision for withholding allowances if a member fails to attend required training or for co-opted members who fail to attend meetings. A recent separate report to standards committee on the Localism Bill and the abolition of the current standards regime suggested that it would be useful to make such a provision. Therefore it is recommended to include a specific clause in the standards committees' roles and functions in Part 3M of the constitution giving the committee responsibility for considering such matters.
46. Recommended new clause 16:

To consider the withholding of allowances from individual members (including elected members, independent members of standards committee and co-opted members) in whole or in part as part of any sanction in relation to a breach of conduct, for non-attendance at meetings, or, for elected members only, for failure to attend required training.
47. It would be for the committee to exercise this function as it deems appropriate via the main committee or a sub-committee. If this constitutional change is adopted by council assembly, the standards committee later in the year will consider detailed procedure rules on the withholding of allowances.
48. In respect of the attendance, procedure rules already say what happens if a co-opted member or independent member of standards committee does not

attend a meeting for six months. In the case of co-opted members of the overview & scrutiny committee and its sub-committees, overview & scrutiny procedure rule 3.2 makes provision that “in the event that a co-opted member does not attend a meeting of the committee on which they serve for period of six consecutive months, without the approval of the council, they shall cease to be a member of the authority”. A similar clause can be found in the committee procedure rule 2.2(3) in respect of independent members of standards committee and co-opted members who serve on committees. The council can make an exception for example in the case of ill health.

PART 3N: URGENCY COMMITTEE

49. At the annual meeting in May 2010, council assembly agreed that the role of the urgency committee between the municipal election and the annual meeting be reviewed in light of post-election period in 2010 and the new executive arrangements. Officers are reviewing the urgency committee arrangements that existed prior to the election and will report in due course to ensure the council’s constitution makes the appropriate provision. The urgency committee only applies in the post-election period following a full municipal election; the next full elections are in 2014.

COUNCIL ASSEMBLY PROCEDURE RULES

50. The constitutional review provides an opportunity to review the rules on the themed debate based on the experience of the first themed debate at council assembly on 6 April 2011. The provision for members’ questions during the themed debate has created a number of unforeseen consequences. These include:
- reducing the number of members who can make a contribution during the debate as overall time for the theme is limited to one hour
 - duplicating the provision that already exists for members’ questions time and urgent questions to the leader which immediately follows the themed debate
 - requiring considerable additional officer resources, which are limited, to provide background information for written responses and compile the responses document for the meeting.
51. Therefore it is proposed to subsume members’ questions on the theme within the normal members’ question time. This would involve deleting the reference to members’ questions from the council assembly procedure rules relating to the themed debate. The recommended changes to the constitution are set out below:

Council assembly procedure rule 2.2 – Order of business at ordinary council meetings

Themed debates

- a) consider themed debates centred on a cabinet member’s portfolio or plans, policies and strategies, including the annual state of the borough and budget meetings
- b) public pre-submitted questions on the theme of the meeting
- c) members’ motions ~~and questions~~ on the theme

Council assembly procedure rule 2.7(3) – Themed debate

Order of debate

3. The order of business of the debate will be:
 - Cabinet member has 10 minutes in which to present the theme, plan or strategy
 - Public pre-submitted questions on the theme of the meeting (maximum of 15 minutes)
 - Member's motions ~~and questions~~ on the cabinet theme using present principles to allow sufficient political balance and for political groups to hold cabinet to account (maximum 30 minutes).

Members' motions ~~and questions~~

9. All motions ~~and questions~~ shall be relevant to the topic under discussion and shall be conducted under the existing rules for members' motions ~~and questions~~. Normal deadlines shall apply for the submission of members' ~~questions and~~ motions.
10. The order of motions, ~~questions~~ and timings shall be determined by the Mayor

DEPUTATIONS - DEADLINES

52. At its meeting on 1 December 2010, the council assembly considered the changes to the council assembly procedure rules arising from the recommendation of stage 1 of the Democracy Commission. It was agreed to reduce the deadline for deputations and public questions at council assembly to three clear working days before the meeting. As a result the council's procedure rules now include a number of different deadlines. For example, community councils and cabinet are seven and nine clear working days respectively. Committees are already three clear working days.
53. Having considered the issue, the constitutional steering panel recommended unifying the deadline for deputations at three clear working days for the following reasons:
 - Consistency
 - Improved community engagement and access
 - Reduce the need for late and urgent deputations.

CONTRACT STANDING ORDERS

General advice on changes to contract standing orders

54. 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 monitoring officer and finance director 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

Substantive changes

55. The recommended substantive changes are set out below (and are included in Appendix 3):

- CSO 9 – Contractor insolvency - - A new section has been proposed to address the greater risk of contractors becoming insolvent in the current economic climate. This change sets out a new requirement to inform the monitoring officer and finance director as early as possible in order to ensure that appropriate advice may be given. The new standing order is proposed to be 'Contractor insolvency' and applies where there is a risk of insolvency or actual insolvency
- CSO 4.6.2a – Decisions to allow variations during the contract term (Gateway 3) – This change strengthens the arrangements in place regarding contract variations by introducing lower thresholds at which such decisions must be taken by the finance director (instead of by the chief officer) and notified to members of the cabinet.

Other minor changes

56. A number of other minor changes are summarised below and are included in Appendix 3:

Explanatory changes

- CSO 2.5 – Record keeping - make explicit the requirement that contract records must include tender opening records where the contract is over £75,000
- New CSO 4.6.2(c) - Decisions to allow variations during the contract term (Gateway 3) - This change relates to contracts affecting the budget of more than one directorate. It makes explicit the requirement to obtain agreement from relevant chief officers when varying departmental contracts affecting more than one directorate
- CSO 6.6 (and by re-ordering CSO 6.4 and 6.5) – Tender procedure – This clarifies tender procedures to make it clear that a chief officer's power to authorise exceptions to tender procedures does not in fact include the alteration of tender opening arrangements
- Clarify definition of 'variation' in line with current procedures - procedures have been tightened up so that variations of the original approval may only be sought in respect of contracts capable of the proposed variation; where the variation was not anticipated or allowed for, report writers must use the Gateway 1 and 2 route.

Changes in terminology

- Update reference to Office of Government Commence (now Buying Solutions) in Definitions.

FINANCIAL STANDING ORDERS

General advice on changes to financial standing orders

57. 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.

Substantive Changes

58. The recommended substantive change to the FSOs is summarised below and included in Appendix 4:

- 8d) – Capital Programme – Major Overspends and Underspends – This change strengthens monitoring and control of the capital programme by tightening up requirements to report on overspends or underspends to cabinet. The change reduces the threshold for reporting such variations.

Other minor changes

59. A number of other minor changes are summarised below and included in Appendix 4:

- 9b) - Leases – This change clarifies the requirement for strategic officers to consult as early as possible with the finance director prior to taking or granting a lease
- Updated references to the Accounts and Audit Regulations in 1a)i), 3a) and 6a) – These changes are in line with the consolidation and revision of the statutory regulations
- Glossary - To remove references to the 'Money' section in 1d) and the glossary. This section is to be renamed on the council's intranet as financial regulations.

CONSEQUENTIAL CHANGES

60. 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.

COMMUNICATIONS PROTOCOL

61. There is a separate report elsewhere on the council assembly agenda on the communications protocol.

OTHER IMPLICATIONS

Legal implications

62. This comment advises council assembly of the legal procedure relating to changes to the council's constitution.

63. 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.

64. 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. Changes to the constitution are generally agreed by council assembly, unless another body or individual is authorised to do so – see Article 1.5. Article 1.5 (b) provides for the leader to agree any executive function or local choice function to be discharged by the cabinet and therefore council assembly is only asked to note changes to the schemes of executive delegation.
65. 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

66. The budget for 2011/12 was set on 22 February 2011 and any changes to the constitution must be contained within the budget.
67. 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 5LZ	Lesley John 020 7525 7228
Constitutional steering panel – 20 April 2011 - report	Southwark Council, 160 Tooley Street, London SE1 5LZ	Lesley John 020 7525 7228
Street Trading and Markets Strategy – Report to Cabinet 25 January 2011	Southwark Council, 160 Tooley Street, London SE1 5LZ	Paula Thornton 020 7525 7222

APPENDICES

Appendix No.	Title
Appendix 1	Street Trading and Markets – Background Information
Appendix 2	Street Trading and Markets – Draft Byelaws
Appendix 3	Contract Standing Orders 2011/12
Appendix 4	Financial Standing Orders 2011/12
Appendix 5	Recommendations of the Constitutional Steering Panel – 3 May 2011

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	5 May 2011	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Included in body of report
Finance Director	Yes	Included in body of report
Head of Financial Governance	Yes	Included in body of report
Strategic Director of Environment (Head of Public Realm)	Yes	Included in body of report
Cabinet Member	No	No
Date final report sent to Constitutional Team	5 May 2011	

APPENDIX 1**STREET TRADING AND MARKETS CONSTITUTIONAL CHANGES****BACKGROUND INFORMATION**

1. On 21 September 2010 the Cabinet agreed the Markets and Street Trading Strategy that sets out the vision for the future of Southwark's Markets. The aim of the Strategy is to chart the way forward to revitalizing markets and street trading so that they play a full part in the regeneration of Southwark, maximise their economic and employment benefits, promote and sustain independent and small businesses, provide access to high quality affordable food and other commodities and contribute to a vibrant public realm.
2. On 25 January 2011 Cabinet agreed that a report be submitted to Council Assembly on the changing the legislative framework from London Local Authorities Act 1990 as amended to Part III of the Food Act 1984, with the assurance that all their current terms and conditions contained within the LLA 1990, are protected and enshrined in a new Byelaw and Terms and Conditions schedule.
3. The Market strategy sets out the clear and significant issues arising from the current regulatory/legislative framework that are having a deleterious effect on the markets and the strategy suggested changing the legal basis on which the Council operates markets and street trading.
4. It is considered necessary to put this legislative change in place to ensure that Southwark Markets are able to compete with private markets and protect the existing markets from further private encroachment. This is the case whatever longer term option is chosen for the future operation of the Markets service.
5. Like the majority of London Boroughs the market and street trading operation of Southwark Council is governed by the provisions of the London Local Authorities Act 1990 (as amended). The focus of the London legislation is street trading, which does not fall within the definition of a market that gives rise to market rights.
6. London Boroughs can operate markets on the same basis as local authorities throughout England and Wales. In addition to the various powers available under charter, letters patent, prescription, custom and practice and local legislation it is possible to utilise the provisions of Part III of the Food Act 1984.
7. On 21 September 2010 Cabinet agreed that officers seek the views of Southwark Association of Street Traders (SAST) on moving to the Food Act 1984. SAST have been intensively consulted on this issue and they fully recognise that the markets must change and are willing to accept the move to Food Act provisions, with the proviso that they have similar protections as under the previous legislation.

8. Further discussions took place during January and February with agreement reached on a new set of terms and conditions that would operate under the new legislative framework.

Consultation

9. Consultation was undertaken with Traders, Private Operators, and other key stakeholders on legislative change. Some conclusions drawn were:
- SAST are willing to accept a change in the Legislative framework, as long as they were involved in future decision taking.
 - Private Operators would not be interested in a Licence to operate unless there was a slackening of Local Authority control, and changes to current legislation, moving to the Food Act 1984
 - Borough Market were interested in commencing discussions in relation to the possibility of extending their Trust arrangement to cover Southwark Markets once the change in legislation was agreed.
 - They would also be available to advise Southwark Traders, if they wished to consider setting themselves up as a Trust to manage Southwark Markets

Legal implications (DC/1210)

Legislation

10. Currently Southwark manages street trading under the provisions of Part III of the London Local Authorities Act 1990 (“the 1990 Act”). By section 24 of the 1990 Act Southwark as designated certain streets as licence streets. This enables applications for street trading licences to be made. Part III of the 1990 Act also allow street to have their designations removed following the procedures in Section 24.
11. This removal will require a resolution by Council Assembly, following consultation with the licence holders or a body or bodies representing them. In addition statutory advertisements have to precede such a resolution pursuant to section 24(4).
12. It likely that a street trading licence is a ‘possession’ within the meaning if article 1 of the first protocol to the European Convention on Human Rights. Therefore we must be mindful that any interference is proportionate.
13. By section 50(1) of the Food Act 1984, as amended, (“the 1984 Act”) a local authority, such as the Southwark, may establish a market within their area. Part III of the 1984 Act thereafter provides for certain other matters, which enable such markets to operate and be properly regulated. The local authority establishing a market can appoint an authorised market officer to run it and fix the charges.

Regulation and Operation

14. Once a market has been established under the 1984 Act the public at large will have a right to enter and use the market for the purpose of selling and buying goods. However there is no right to take exclusive occupation of any part of the market, for example by erecting a stall.

15. Under s.60 of the 1984 Act the Council can make byelaws setting out how the market is to be used and also making other provisions such as for preventing nuisances and fires.
16. The byelaw may make provision that no person shall occupy or use any stall without the permission of the Council or a Market Officer. It is a matter for the Council, what form this permission is to take. As the owner of the market the Council can let stalls or spaces for stalls, by way of a contractual licence to occupy land in the market. The Council can set the terms and conditions of any such licence agreement.

London Borough of Southwark**BYELAWS FOR MARKETS**

Byelaws for markets made by Southwark Council under section 60 of the Food Act 1984 with respect to all Markets listed in the Schedule attached to these byelaws.

INTERPRETATION

1. In these byelaws:

“The council” means Southwark Council

“Goods” means anything brought into the market place for the purpose of sale;

“Market” means any market maintained by the council and listed in the Schedule to these byelaws;

“Market hours” means the hours on a market day appointed by the council for the holding of a market;

“Market day” means a day appointed by the council for the holding of a market;

“Market officer” means the person or persons appointed by the council to exercise general management, supervision and control of a market;

“Sell” and “sale” include exposing and exposure for sale;

“Pitch” includes any place or space used or intended to be used for the sale of goods;

“Vehicle” means a mechanically propelled vehicle [whether or not] intended or adapted for use on roads but does not include an invalid carriage.

MARKET DAYS AND HOURS

2. No person shall sell in a market place any goods other than during market hours.
3. The market shall operate between the hours set down for that particular market location. There shall be no trading in the event of Christmas Day, Boxing Day or New Years Day falling on a market day unless a prior agreement has been reached by all parties.
4. All traders must vacate the market area by the end of the trading day including the packing up time. No trader shall vacate their pitch before 2pm other than Bermondsey Antiques Market which will be 1pm.
5. The Markets Officer shall have the right to close the market at his/her absolute discretion on the grounds of public safety. Refunds of pitch fees will only be made if the market is closed prior to 10.00hrs on the day of trading.

LICENSING OF TRADERS

6. The Licence is personal to a trader and shall be in the name of the registered trader only. At the written request of the registered trader and provided an Agreement has been completed by the Council at the cost of the trader, the licence shall be deemed to include a spouse or cohabitee.
7. When the holder of a licence has specified a relative to whom they desire the licence to be granted dies or retires or notifies the Council that owing to ill health they are unable to continue trading, the licence can be transferred by way of a next of kin transfer. For the purposes of this section a person shall be treated as being related to another if the latter is the wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, half-sister, uncle, aunt of the former and shall be deemed to be so related notwithstanding that he is so related only through an illegitimacy or in consequence of an adoption.

PREVENTION OF OBSTRUCTION

8. No person shall bring a vehicle or a cycle into the market place during market hours without reasonable excuse.
9. No person in charge of a vehicle shall, during market hours allow it be halted in the market place, or in its immediate approaches, for longer than is reasonably necessary for the loading or unloading of goods.
10. No person shall bring any goods into the market place more than one hour before the market hours begin or allow them to remain there more than one hour after the market hours end.
11. When loading/unloading their vehicles, all traders shall cause the minimum amount of obstruction and inconvenience to the general public, other traders or council employees and contractors. In particular traders must comply with requirements to ensure emergency access as the Markets Manager/Officer deems necessary.
12. No trader shall allow or cause any goods to be placed on any stall/pitch or space such that they encroach beyond the allotted limits of the stall/pitch.
13. The trader must not do or permit anything which may be or become a nuisance to any member of the public, neighbouring business or any occupiers of neighbouring or adjoining stalls/pitches and to use the stall/pitch in a diligent and business like manner.
14. The stalls are erected in accordance with pitch layout held by the Markets Manager and as delineated in the Traders Licence Agreement.
15. Stalls are not to be moved from their respective markers/allocated space.
16. During construction /unloading /dismantling /loading operations traders must ensure that they carry out such in such a manner to safeguard themselves, their colleagues and members of the public.

AUTHORITY TO USE SPACE

17. No person shall occupy any pitch or deposit any goods on any stall without the permission of the market officer.
18. No person shall set up or attempt to set up on a pitch in the market place without the permission of the market officer.
19. All persons occupying pitches shall be governed by the general market regulations set down from time to time.
20. Where the council:

Designate any part of the market place for the sale of particular goods or any class of goods, or for sales by auction, and

No person shall sell goods, or hold sales by auction, except in accordance with the terms of that designation.

FOR MAINTAINING CLEANLINESS

21. Every tenant or occupier of a pitch shall:
 - I. shall ensure that his/her stall and any adjoining passages, whether used by them alone or in conjunction with other traders, is properly cleared throughout the day so as to ensure that litter is not allowed to accumulate and will be removed from the stall / pitch at the end of the day..
 - II. You or your assistant must put all refuse arising from your business in suitable containers that you or we supply. The containers must be kept exclusively for that purpose and must be removed or emptied from time to time as necessary into a vehicle or container provided for the purpose.
 - III. You or your assistant must ensure that all wastewater is collected in a secure container and discharged in a way that does not cause a nuisance.
 - IV. You and your assistant must give every assistance to any contractor employed in refuse or cleaning services. Any arrangements we make to clean street trading areas do not take away the responsibilities of you or your assistant under the Environmental Protection Act 1990 (or any subsequent or superseding legislation).
 - V. Litter bins where provided for use by the general public only and not trade litter.
 - VI. Traders providing containers for food or drink consumption on the market place shall make such additional arrangements for litter as shall be deemed necessary.

FOR PREVENTION OF SPREAD OF FIRE

22. No person shall smoke within the pitch area during market operational hours.
23. No person shall light a fire in any part of the market place.
24. No person shall keep or sell any explosive or highly flammable substance in the market place

FOR PRESERVATION OF ORDER

25. No person shall ring any bell or blow any horn or use any other noisy instrument or loudspeaker to attract the attention or custom of any person.
26. No persons shall post or display any bill, placard or poster, other than a description of goods advertised for sale, in any part of the market place except with the permission of the market officer.
27. No person in the market place or in its immediate approaches shall, except by way of sale, distribute or attempt to distribute to the public any printed matter except with the permission of the market officer.

USE OF WATER TAPS

28. Any person who uses a water tap in the market place shall ensure that it is turned off immediately after use.

ANIMALS

29. No person shall bring into or allow to remain in the market any dog or other animal belonging to him or in his charge unless it is attached to a lead, or otherwise kept sufficiently secured, and kept at all times under his control .
30. (a) No tenant or occupier of a pitch shall keep any dog or other animal at his pitch.
(b) Nothing in paragraph (a) above shall prevent a blind, partially sighted or deaf person from keeping with him any guide dog or hearing dog belonging to him or in his charge.

PENALTIES

31. Any person offending against any of these byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

APPENDIX 3



CONTRACT STANDING ORDERS ~~2010/11~~ 2011/12

Introduction

1. When do Contract Standing Orders apply?

2. General principles

- 2.1 Compliance with relevant statutory and corporate requirements
- 2.2 Consequences of non-compliance
- 2.3 General principle of contract decision making
- 2.4 Contracts in writing
- 2.5 Record keeping
- 2.6 Lead contract officer
- 2.7 Authority to act in line with scheme of management
- 2.8 Declarations of interest
- 2.9 Changes to CSOs

3. Particular types of contract

- 3.1 Corporate contracts
- 3.2 Consortium contracts
- 3.3 Framework/schedule of rates contracts
- 3.4 Health and social care and education Spot contracts
- 3.5 Leasing contracts

4. Approvals processes

- 4.1 Overview of procurement process
- 4.2 Gateway and other reports
- 4.3 Supplemental advice from other officers in Gateway and other reports
- 4.4 Decision on procurement strategy – Gateway 1
- 4.5 Decision on contract award – Gateway 2
- 4.6 Decision to allow variations during contract term
- 4.7 Retrospective approvals
- 4.8 Exemptions
- 4.9 Emergencies

5. Requirements to obtain tenders or quotes depending on type of contract and levels of contract value

- 5.1 Contracts less than £5,000
- 5.2 Contracts from £5,000 to £75,000
- 5.3 Works contracts and works-related services above £75,000 but below EU threshold
- 5.4 All other contracts not falling within 5.1 to 5.3 above

6. Tender procedure

7. Contract management and monitoring

8. Contract termination

9. Contractor insolvency

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 and, for all contracts with an Estimated Contract Value over £75,000, all tender opening records

- 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:

- cabinet/cabinet 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 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 (such as a Variation report) 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 cabinet or cabinet 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 and requests to delegate powers to award the contract.

4.5 Decision on contract award – Gateway 2

4.5.1 A decision to award any contract with an Estimated Contract Value of over £75,000 must only be made after consideration of a Gateway 2 report. It is recommended that such a report is also used for contracts with an estimated value of £75,000 or below. As a minimum, the LCO must keep a written record of decisions and action taken.

4.5.2 The decision on the award of a contract is to be taken on the basis of a written report by the relevant chief officer or under his/her delegated authority in line with the department's scheme of management, except where:

- a) the contract is a Strategic Procurement, the decision must be taken by the cabinet or cabinet 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~~ £250,000 or above (for services and supplies contracts) or ~~above the relevant EU threshold~~ £1 million or above (for works contracts) and the amount of the proposed Variation is more than ~~15%~~ 10% 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 cabinet
- 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 cabinet
- c) the contract affects the budget of more than one directorate, but does not fall into a) or b) above, the decision must be taken by the relevant chief officer, after obtaining agreement in writing from the other relevant chief officer(s)
- d) 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
- e) 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)
- f) approval has been obtained in line with 4.4.3 above to a different decision process.

- 4.6.3 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 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 of 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 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 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 A tender received by the council after the time and date specified in the invitation shall not be accepted or considered.
- 6.4-5 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 6.54 above will only be made in exceptional circumstances and must be authorised by the relevant chief officer in writing following consultation with the finance director, CCRB or DCRB as appropriate to the contract.

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 cabinet and cabinet member for finance and resources.

9. Contractor insolvency

- 9.1 Where it appears that a contractor is at risk of becoming insolvent, or the council is notified that insolvency proceedings have been brought, the chief officer must inform the monitoring officer and finance director as early as possible, in order to enable appropriate advice to be given.

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. Catalist (which replaces GCAT and S-CAT) Buying Solutions , 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 there is no fixed figure, the LCO's best estimate of the likely amount to be spent over the period of the contract, taking into account the prices accepted.
Corporate contract	A contract arranged by 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 cabinet, 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.

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 where the contract is capable of this. 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>

FINANCIAL STANDING ORDERS ~~2010/11~~ 2011/12

Introduction

1. Financial administration

- a) Finance director
- b) Strategic directors
- c) Financial advice to the cabinet
- d) Financial regulations
- e) Partnerships
- f) Treasury management
- g) Pensions
- h) Cap and trading schemes
- i) Companies in which the council has an interest
- j) Guarantees
- k) Internal audit
- l) Risk management
- m) Fraud

2. Financial planning

- a) Planning process

3. Preparation of the revenue budget

- a) Finance director's responsibilities
- b) Strategic directors' responsibilities
- c) Budget working papers and revenue estimates
- d) Budget timetable and cash limits

4. Setting the annual budget and the council tax

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

5. Monitoring and control of the revenue budget

- a) Budget spending
- b) Monitoring
- c) Budget adjustments/virements within a directorate
- d) Budget adjustments/virements between directorates
- e) Treatment of overspends and underspends
- f) Accuracy of accounts

6. Annual statement of accounts

- a) Finance director
- b) Strategic directors

7. Preparation of the capital programme

- a) Capital strategy and programme
- b) Financing of schemes
- c) Capital schemes

8. Monitoring and control of the capital programme

- a) Control
- b) Reporting requirements
- c) Variations to the capital programme
- d) Major overspends
- e) Accuracy of accounts

9. Leases

- a) Capital accounting considerations
- b) Consent

10. Schools financial framework

- a) Application of standing orders
- b) Financial regulations
- c) Scheme for financing schools

11. Treasury management

- a) Prudential framework
- b) Borrowing and treasury management strategy and decisions
- c) Departure from ODPM guidance or the CIPFA code

Glossary

Introduction

The council allocates resources for both capital and revenue purposes. The council has systems to monitor expenditure and income on an accruals basis and to monitor accounting commitments on both revenue and capital budgets. All references to income and expenditure in the financial standing orders and financial regulations include accrued income and expenditure in addition to cash receipts and payments. A short glossary of other terms is appended to the financial standing orders for ease of reference.

References in these standing orders to “the cabinet” should be taken to include decisions taken by the whole cabinet, decisions by any committee of the cabinet and decisions by individual members of the cabinet. Delegations to the cabinet are set out elsewhere in the constitution.

As set out in article 1, the finance director may make minor changes (see Glossary) to the financial standing orders, after consultation with the strategic director of communities, law & governance.

1. Financial administration

a) Finance director

- i) The finance director is the officer appointed by the council in accordance with section 151 of the Local Government Act 1972, section 114 of the Local Government Finance Act 1988, the Accounts and Audit [\(England\) Regulations 2003](#) ~~(as amended)~~ [2011](#), and section 25 of the Local Government Act 2003. The postholder must ensure that the council’s financial affairs are administered in a proper manner, in compliance with all relevant professional codes of practice, and all statutory obligations.
- ii) All matters connected with the financial administration of the council’s affairs are the delegated responsibility of the finance director, except any matters which are delegated to other officers or reserved to committees of council members, the cabinet, or to the council itself. The finance director may authorise other officers to carry out matters delegated to him/her except the section 151 responsibilities.

b) Strategic directors

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

c) Financial advice to the cabinet

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

d) Financial regulations

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

~~The Money section of the Source (the council's business managers' handbook) for the purposes of these financial standing orders is the council financial regulations.~~

e) Partnerships

Financial governance arrangements in respect of partnerships must meet the requirements of the finance director and his written approval must be obtained before any partnership arrangements are entered into.

f) Treasury management

All treasury management decisions are the responsibility of the finance director, as set out in paragraph 11 below.

g) Pensions

All pension scheme decisions are the responsibility of the finance director, acting on the advice of the pensions advisory panel, as set out in part 3 of the constitution.

h) Cap and trading schemes

The finance director must be consulted on all decisions relating to the landfill allowance trading scheme (LATS) and any similar cap and trading schemes.

i) Companies in which the council has an interest

The finance director and monitoring officer must be consulted on all proposals relating to the establishment of companies in which the council is to have an interest.

j) Guarantees

Any proposal for giving a financial guarantee on behalf of a party external to the council must have prior written approval of the finance director.

k) Internal audit

- i) The finance director is responsible for:
- safeguarding the independence of internal audit
 - determining the overall audit arrangements and the annual internal audit plan
 - the content and distribution of internal audit reports
 - the form and frequency of reports which may be made to the audit and governance committee arising from internal audit activity.
- ii) It is the responsibility of all council officers to implement agreed recommendations and to provide, upon the request of the finance director or a person nominated by him or her for this purpose, any information, explanation or document under the control of the officer concerned which is required for the purposes of or in connection with an internal audit inquiry, project, or investigation.
- iii) The finance director will report to the audit and governance committee any serious breach of financial standing orders or of the financial regulations or procedural instructions issued in accordance with them.

l) Risk management

The finance director will be responsible for ensuring awareness of and compliance across the council with risk management responsibilities and protocols as they impact upon day-to-day operations and major project activities and for reporting on risk management as appropriate.

m) Fraud

The finance director is responsible for management of the investigation process for all suspected cases of fraud, corruption, financial loss or malpractice.

2. Financial planning

a) Planning process

The council's financial planning processes and planning horizons, for the revenue budgets (including the housing revenue account), the capital programme and the medium term resources strategy, will be determined by the finance director, subject to approval by the cabinet. This will have regard to the council's community strategy, corporate plan, corporate priorities and business plans.

3. Preparation of the revenue budget

a) Finance director's responsibilities

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

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

The finance director also has specific responsibility for confirming the deployment of the dedicated schools grant in support of the schools budget, as required by section 16 of the Education Act 2002 and the Accounts and Audit (~~Amendment~~) (England) Regulations ~~2006~~ 2011.

b) Strategic director's responsibilities

- i) Preparing the revenue budget for the services in his/her departments in consultation with the relevant member of the cabinet, which will have regard to the community strategy, corporate plan, corporate priorities and business plans.
- ii) Ensuring that corporate deadlines are met.
- iii) Ensuring that resources are allocated through a detailed budget on SAP by the deadline set by the finance director.
- iv) Ensuring that reports are submitted to the relevant cabinet member(s), seeking approval of fees and charges in relation to their areas of responsibility.

c) Budget working papers and revenue estimates

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

d) Budget timetable and cash limits

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

4. Setting the annual budget and the council tax

a) Precepting authorities and the tax base

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

b) Collection fund

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

c) Decision by members

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

All members must ensure that any outstanding debts relating to council tax or national non-domestic rates payable by them to the council have been settled at least one clear working day before the council assembly meeting at which the overall council tax is set.

5. Monitoring and control of the revenue budget**a) Budget spending**

Following approval by the council of the annual revenue estimates, strategic directors may spend within the agreed budget for their departments. They must ensure that the net expenditure for their departments does not exceed the approved budget. They must also ensure that they do not incur expenditure on budgets outside their departmental budget without first getting approval from the relevant strategic director.

b) Monitoring

- i) Strategic directors must:
 - ensure that there are adequate systems to monitor and audit the resources allocated to services.
 - monitor at least monthly the accurately projected income and expenditure outturn for the financial year under each budget heading, having regard to any contingent or other liabilities for which financial provision may be required.
 - present reports containing up to date summary projections to the relevant cabinet member each month.
- ii) The finance director must report on the overall financial position of the council to the cabinet on a quarterly basis. This report will include any concerns he/she may have about the outturns projected by strategic directors or about financial controls within departments.

c) Budget adjustments/virements within a directorate

Strategic directors may vire budget provision between services as set out in the budget book (cost centre groups) within their department, subject to the following:

- i) The authority for all virements must comply with each department's scheme of management.
- ii) Provisions included within departmental budgets on the instructions of the finance director as per the schedule of corporately controlled budgets maintained by the finance director, (e.g. insurance, capital charges, leasing costs, service level agreements, FRS 17, planned maintenance etc) may not be vired for other purposes without the written consent of the finance director.
- iii) If the virement is in excess of £250,000, it cannot be actioned until the strategic director has notified it to the finance director who will report it to the cabinet at the earliest opportunity. This rule applies where there is movement of an approved budget from one service to another and to adjustments between subjective categories of income and expenditure such as to reflect additional grant or other income and associated expenditure.

d) Budget adjustments/virements between directorates

- i) Where responsibility for a service is transferred from one department to another and the annual cost transferred exceeds £250,000, the relevant strategic director(s) must obtain written consent from the finance director who will obtain the approval of the cabinet.
- ii) Subject to paragraph 13 of Part 3A of the Constitution "matters reserved to council assembly", the cabinet may at any time during a financial year, having considered a report of the finance director, vary the departmental approved budget either:
 - to require mid-year savings to compensate for a projected corporate overspend
 - to allocate to departments sums included within corporate provisions or budgets, excluding those which form part of the schedule of corporately controlled budgets maintained by the finance director.

e) Treatment of overspends and underspends

The finance director may, on consideration of the overall financial position of the council at the end of a financial year, recommend to the cabinet whether overspends by departments should be set off against budgets in the subsequent financial year and whether underspends by departments can be made available for specific projects or carried forward to the subsequent financial year, or otherwise accounted for, in line with the medium term resources strategy.

f) Accuracy of accounts

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

- expenditure under finance leases
- expenditure permitted to be charged to capital
- the repayment of sums borrowed
- expenditure on approved instruments (treasury loans)
- payments from the superannuation funds
- the use of trust funds
- transactions within the collection fund.

6. Annual statement of accounts

a) Finance director

The finance director is responsible for the preparation and certification of the annual statement of accounts in accordance with current legislation and in particular with the Accounts and Audit [\(England\) Regulations 2003](#) ~~(as amended)~~ [2011](#). The finance director will make arrangements for the coordination of the council's closing of accounts programme to ensure compliance with national guidelines.

b) Strategic directors

Strategic directors are responsible for ensuring:

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

7. Preparation of the capital programme

a) Capital strategy and programme

Council assembly will, on consideration of reports at least every four years and as necessary in the event of a significant change in circumstances from the finance director, agree the capital strategy and programme. The reports

from the finance director will consider the compliance of proposed schemes in the programme with the medium term resources strategy, the capital resources available to the council, the revenue implications of the proposed capital expenditure, and any other relevant information.

b) Financing of schemes

Within the overall approved capital programme, the finance director will decide the method by which any particular scheme will be financed in consultation with the cabinet member for finance and resources.

c) Capital schemes

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

8. Monitoring and control of the capital programme

a) Control

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

b) Reporting requirements

- i) The finance director will report on the actual capital expenditure incurred in the first six months by the council as a whole to the cabinet by December. This report will include details of variations to the capital programme (see (c) below), the projected outturn for the financial year and the total capital resources available to the council with which to finance such expenditure.
- ii) The finance director will report to the cabinet on the outturn position for capital expenditure for each financial year.

c) Variations to the capital programme

i) Virements

Virements between capital projects or programme headings as set out in the overall programme approved by council assembly must be notified by the relevant strategic director to the finance director and cannot be actioned until they have been approved as follows:

- up to £100,000 – finance director
- over £100,000 and up to £1,000,000 – the cabinet member for finance and resources, after consultation with the relevant cabinet member(s)
- over £1,000,000 and up to £10,000,000 – the cabinet
- over £10,000,000 – council assembly.

ii) Changes to profiles of expenditure and resources

Changes to profiles for capital projects or programme headings as set out in the overall programme approved by council assembly must be notified by the strategic director to the finance director and cannot be actioned until they have been approved as follows:

- up to £250,000 – strategic director
- over £250,000 – cabinet member for finance and resources, after consultation with the relevant cabinet member.

d) Major overspends and underspends

Strategic directors must report to the finance director who will report to the cabinet on any schemes in progress, which are forecast to overspend or underspend by ~~15%~~ 10% or more compared to the approved budget unless the overspending or underspending amounts to less than £250,000. The report must give the reasons for the overspending or underspending.

e) Accuracy of accounts

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

9. Leases

a) Capital accounting considerations

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

b) Consent

Strategic directors are required to consult with the finance director as early as possible in order to obtain advice on the correct assessment of a lease (as 'finance' or 'operating') and to obtain written permission from ~~the finance director~~ him before taking or granting a lease on any asset. The exceptions to this are:

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

10. Schools financial framework

a) Application of standing orders

Delegated budgets of schools, in accordance with the Schools Standards and Framework Act 1998, remain part of the authority. The statutory

responsibilities of the finance director apply to schools in the same way as any other part of the council.

b) Financial regulations

Financial regulations applying to schools which differ from those issued to strategic directors and departments will be issued by the strategic director of children's services after agreeing them with the finance director.

c) Scheme for financing schools

The finance director and strategic director of children's services will consult on and issue a scheme for financing schools annually.

11. Treasury management

a) Prudential framework

i) Prudential indicators

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

ii) Reporting

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

b) Borrowing and treasury management strategy and decisions

i) Strategy

The finance director shall set out the borrowing and treasury management strategy (including prudential borrowing arrangements) for consideration and decision by the council assembly each year, in accordance with ODPM guidance on local government investments and the CIPFA code of practice on treasury management in the public sector.

ii) Decisions

All cabinet and operational decisions on borrowing, credit finance and investments are delegated to the finance director.

iii) Reporting

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

c) Departure from ODPM guidance or the CIPFA code

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

Glossary

Budget adjustments/virements	A budget adjustment or virement is a movement of an approved budget from one budget heading or service to another. It will be self-balancing and will be in response to either a change in the level of service (increased or decreased) or additional net costs or benefits within a service. It includes changes to expenditure and income budgets to take account of new grants or other income and associated expenditure including movements between subjective categories of income and expenditure and also corrections to budgets which were set on the basis of incomplete information. It may recognise movements to and from reserves and balances, which may only be actioned by the finance director.
Capital programme	The capital programme is a medium term statement of the council's proposals for capital expenditure, including leasing, having regard to the likely level of resources.
CIPFA	The Chartered Institute of Public Finance and Accountancy (CIPFA) is the body with responsibility for issuing guidance on how accounting standards are to apply to local authorities.
Financial regulations	Financial regulations are such procedures that the finance director shall issue from time to time as part of the financial standing orders. Currently these are contained within the Money section of the Source (the council's business managers' handbook) and all complementary or otherwise similar procedures issued. They are available on the Source.
Minor changes	Minor changes are defined as: <ul style="list-style-type: none"> • typographical/presentational/explanatory changes • changes in statutory framework, i.e. references to new or updated legislation • changes in titles, names or terminology • changes consequential to other constitutional changes already made.

ODPM	The Office of the Deputy Prime Minister (ODPM) is a former government department, which became part of the Communities and Local Government (CLG) department in May 2006.
Partnership	A partnership is an agreement between the council and one or more parties to work together to enable the service provider to give the client the best possible service. The council may not always be the lead provider and the agreement may take a number of forms: it may be contractual, but involve a more integrated, consultative and interactive working relationship or there may be no contract, no formal specification and no competitive process. As a minimum, there should be a service level agreement. Partnerships include joint arrangements, joint committees, joint venture companies and any other special purpose vehicles.
Profiles of expenditure/resources	Profiles of expenditure and resources are estimated patterns of expenditure and income through the year. For capital projects, these will often span more than one financial year. The construction of profiles enables the accurate monitoring of actuals and commitments each month which is essential to ensure that resources are used effectively.
Prudential indicators	Prudential indicators are indicators set by each local authority under CIPFA's prudential code for capital finance to help demonstrate that capital investment plans are affordable, prudent and sustainable and that treasury management (see below) decisions are taken in accordance with good practice. Examples of indicators are ratios of financing costs to net revenue streams; estimates of the incremental impact of capital investment decisions on council tax and levels of external debt.
Treasury management	Treasury management is the management of the council's long term borrowing and short term cash surpluses and deficits in line with its debt and investment strategies.

Item No. 3.5	Classification: Open	Date: 18 May 2011	Meeting Name: Council Assembly
Report title:		Review of Communication Protocol following the publication of a new draft Code of Recommended Practice on Local Authority Publicity	
Ward(s) or groups affected:		All	
From:		Constitutional Steering Panel	

RECOMMENDATIONS

1. That Council Assembly agree the attached communication protocol at Appendix A.

BACKGROUND INFORMATION

2. The Communication Protocol was introduced in May 2004 and has been reviewed regularly since. This present review is in response to the revised Code of recommended practice on local authority publicity which came into force on 31 March 2011 ("the Code").
3. The Protocol was been considered by the Standards Committee on 7 March 2011.
4. The revised Communication Protocol is recommended by the Constitutional Steering Panel following their meeting on 14 March 2011.
5. Like the existing code, the Code supports the statutory restrictions on publicity and recommends practice on a number of aspects of publicity covering subject matter, costs, content, dissemination, advertising, recruitment advertising, publicity about individual members of an authority, timing of publicity, elections, referendums and petitions, and assistance to others for publicity.
6. After consultation with local authority organisations on a draft revised Code which closed on 10 November 2010, the Communities and Local Government Select Committee held a short inquiry looking at the draft revised Code on 6 December 2010. The Department of Communities and Local Government published a draft Code which was laid before Parliament on 11 February 2011. This came into force on 31 March 2011.
7. The Code is issued under powers conferred on the Secretary of State under the Local Government Act 1986 ('the 1986 Act'). Local authorities are required to have regard to the Code in coming to any decision on publicity.

KEY ISSUES FOR CONSIDERATION

Seven principles of publicity

8. The Code is a significant restructuring of the existing Code and sets out seven principles that publicity by local authorities should follow. It should:
 - be lawful

- be cost-effective
 - be objective
 - be even-handed
 - be appropriate
 - have regard to equality and diversity
 - be issued with care during periods of heightened sensitivity.
9. The principle of lawfulness is that an authority's publicity should comply with statutory provisions and advises that any paid-for advertising published by a local authority should comply with the Advertising Standards Authority's Advertising Codes. The principle of cost-effectiveness is that local authorities should be able to confirm that consideration has been given to the value for money that the publicity is achieving, while recognising that in some circumstances this will be difficult to quantify.
 10. The principle of objectivity requires local authority publicity to be politically impartial. The Code acknowledges that a council has to be able to explain its decisions and justify its policies, but this should not be done in a way that can be perceived as a political statement or a commentary on contentious areas of public policy. The principle of even-handedness has the effect that local authority publicity can address matters of political controversy in a fair manner and may contain links to other political sites, or contain political logos on material hosted for third parties. But local authorities should ensure that publicity about the council does not seek to affect support for a single councillor or group. The Code does, however, recognise that at times it is acceptable to associate publicity with a single member of the council, such as the chair of a community council.
 11. The principle addressing the appropriate use of publicity is that local authorities should refrain from retaining the services of lobbyists, i.e. political professionals whose job it is to bring their client's message to those in a position to influence policy. Appropriate use of publicity is also about the frequency, content and appearance of council newsletters. It sets out that generally the frequency of council newsletters should be no more than quarterly.
 12. The equality and diversity principle is that publicity by local authorities may seek to influence positively the attitudes of local people in relation to matters of health, safety and other issues where publicity can have a positive influence on the behaviour of the public. Finally, the principle that local authority publicity should be issued with care during periods of heightened sensitivity gives guidance as to how local authority publicity should be treated during periods of elections and referendums, both national and local.

Amendments to the communication protocol

13. The suggested changes, which are underlined or shown with strikethrough in the protocol, have resulted from the draft code and other queries that have arisen during the course of the year. There is also reference to use of social media.
14. In the protocol, paragraph 4 is replaced by a new paragraph 5. This outlines the new principles and summarises the key provisions of the Code on these issues.
15. The protocol includes a new paragraph 9 approving the publication of the details of members' surgeries on-line, in hard copy or in advertisements. This brings it in-line with current practice.

16. The protocol includes a new paragraph 19 which aligns the protocol with the code of conduct for officers. This provides clarification and consistency with the code of conduct for officers.
17. The amendments in paragraphs 21 22 and 48 deal with the use of social media. Communication is fast expanding with use of these formats and these paragraphs are aimed to provide clarity on how these can be used.

Community impact statement

18. Good relationships between members and officers are very important in aiding the decision-making process and helping to boost public confidence in the council. A protocol that defines each party's responsibilities creates certainty, which in turn leads to better decision-making and a more satisfied customer.

Legal implications

19. As stated in paragraph 6 the Code is issued under powers conferred on the Secretary of State under section 4(1) of the Local Government Act 1986 ('the 1986 Act'). Southwark must, by virtue of section 4(1) of the 1986 Act, have regard to the Code in coming to any decision on publicity. Publicity is defined in section 6(4) of the 1986 Act as 'any communication, in whatever form, addressed to the public at large or a section of the public'.
20. It should be noted that Southwark needs only to have regard to the Code. Many of the provisions in the Code do appear to be prescriptive although they are only recommended practice.
21. However, failure to conform to the Code means there is a risk of challenge and not just through the courts. Objections could be raised to the accounts.

Resource implications

22. Any resource implications will be contained within existing budgets.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The Constitution	Constitutional Team, 2nd Floor, PO Box 64529, London, SE1P 5LX	Lesley John 020 7525 7228
Code of recommended practice on local authority publicity	Legal Services, 2nd floor, PO Box 64529, London, SE1P 5LX	Norman Coombe 020 7525 7678
Agenda of meeting of Standards Committee of 7 March 2011	Constitutional Team, 2nd Floor, PO Box 64529, London, SE1P 5LX	Lesley John 020 7525 7228

APPENDICES

No.	Item
Appendix A	Communication protocol

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Communities, Law & Governance		
Report Author	Norman Coombe, Principal lawyer		
Version	Final		
Dated	14 April 2011		
Key Decision?	No		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER			
Officer Title	Comments Sought	Comments included	
Strategic Director of Communities, Law & Governance	Yes	Incorporated	
Finance Director	No	No	
Cabinet Member	N/A	N/A	
Date final report sent to Constitutional Team			18 April 2011

APPENDIX A

COMMUNICATION PROTOCOL

Scope of the protocol

1. This protocol applies to all publicity issued or produced and paid for out of the council's resources.
2. The protocol also applies to any other material issued by organisations that are either wholly or partly separate from the council but which use council's grants or other funding from the council to produce the publicity.

The legal framework

3. When publishing any material at any time, a local authority must comply with the provisions of the Local Government Act 1986 (the act) and the Code of Recommended Practice on Local Authority Publicity [2011](#) (the code) which was revised in [31 March 2011](#). Section 2 of the act states as follows:
 - (1) A local authority shall not publish (or assist others to publish) any material, which in whole or in part is designed to affect public support for a political party
 - (2) In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of the publication and the likely effect on those to whom it is directed and in particular the following matters:
 - a) whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the views of one political party and not of another
 - b) where the material is part of a campaign, the effect that the campaign appears to be designed to achieve.

~~4. The key points to note from the above section and the code are as follows:~~

- ~~• any material which in whole or in part appears to be designed to affect public support for a political party is prohibited~~
- ~~• any publicity describing council policies and aims should be as objective as possible, concentrating on facts or explanations or both~~
- ~~• where publicity is used to comment on, or respond to the policies and proposals of central government, or other local councils, the comments or response should be objective, balanced, informative and accurate~~
- ~~• publicity must be objective, explanatory and avoid personalisation of the issues or inappropriate personal image making. A press release should not be used to explain party political differences~~

- ~~When deciding whether publicity may fall foul of the act and the code, the council should consider:~~
 - ~~the content and style of the materials~~
 - ~~the timing and circumstances of the materials~~
 - ~~the likely effect on those to whom it is addressed~~
 - ~~whether it refers to a political party or politician~~
 - ~~whether it advocates a particular view that can be easily identified with a political party~~
 - ~~if it is part of a campaign, the effect that campaign is designed to achieve.~~

5. Section 6 of the act defines publicity as “any communication in whatever form, addressed to the public at large or to a section of the public”.

5. The key points to note from the above section and the code are that publicity by local authorities should:-

- (1) be lawful
- (2) be cost-effective
 - consideration needs to be given to achieving value for money and to what is the most appropriate publicity in each case
 - the code requires that where central government publicity has been issued on a matter, local authorities should not incur expenditure on publicity on the same matter unless they consider additional value is added, i.e. by giving a local context to national issues
 - local authorities should consider whether to take advice before embarking on a publicity campaign involving very large expenditure
- (3) be objective
 - where publicity is used to comment on, or respond to the policies and proposals of central government, or other local councils, the comments or response should be balanced and factually accurate and should avoid anything likely to be perceived by readers as constituting a political statement
 - any publicity describing council policies and aims should be as objective as possible, concentrating on facts or explanations or both
 - local authorities should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy
- (4) be even-handed
 - where local authority publicity addresses matters of political controversy it should seek to present the different positions in question in a fair manner
 - except where a period of heightened sensitivity exists [purdah], it is acceptable for local authorities to publicise the work done by individual members of the council, even if those views do not reflect the views of the local authority itself, although such publicity should make this fact clear

- it is acceptable for local authorities to host publicity prepared by third parties such as blogs and with links to external sites, although those may need to be disabled during a period of heightened sensitivity
 - it is acceptable for publicity prepared by third parties and hosted by local authorities to include a logo associated with a political party or particular member of the authority such as the leader, but publicity material relating to a particular member must not seek to affect public support for that individual
- (5) be appropriate
- local authorities should not incur any expenditure in retaining the services of lobbyists in order to publish material designed to influence public officials, MPs or the government
 - publicity about local authorities and services should be freely available in accessible formats
 - local authority publicity should clearly identify itself as a product of the local authority
- (6) have regard to equality and diversity
- publicity may seek to influence attitudes on health, safety, crime prevention, equality, diversity and community issues
- (7) be issued with care during periods of heightened sensitivity
- particularly regard needs to be paid before elections and referendums, when the general rule is that no publicity should be issued which seeks to influence voters.
- (8) When deciding whether publicity may fall foul of the act and the code, the council should consider:
- the content and style of the materials
 - the timing and circumstances of the materials
 - the likely effect on those to whom it is addressed
 - whether it refers to a political party or politician
 - whether it advocates a particular view that can be easily identified with a political party
 - if it is part of a campaign, the effect that campaign is designed to achieve.

Publicity of individual councillors

6. Publicity about councillors may include their contact details, their political affiliation, the position they hold with the council and their responsibilities.
7. Publicity may include information about individual councillor's proposals, decisions and recommendations where this is relevant to their position and responsibilities within the council.

Ward member of the council

8. Ward councillors will be invited to attend public meetings and events organised by the council to consider a local issue and will also be kept informed of consultative exercises on local issues. Some events will involve some members in formal roles, i.e. take part in photo opportunities, make

presentations or officially address an audience and members will be advised of what those formal roles are and who is involved in those at the time of invitation.

9. [Nothing in this protocol shall prevent the normal publication of the details of members' surgeries on-line, in hard copy or in advertisements.](#)

Official visits by government and shadow ministers

10. It is open to government and shadow ministers to visit the borough at any time. However should the minister require assistance or access to any of the council's services or facilities, the visit will need to be arranged through official channels of the council. This will ensure that appropriate support is provided on the day.
11. To this end all such requests from government and shadow ministers must be referred to the head of communications who will promptly notify the chief executive of the request.
12. The head of communications will liaise with their counterpart at the relevant government department to ascertain the purpose of the visit. The head of communications in consultation with the chief executive and monitoring officer will authorise the visit if satisfied that the visit would assist the council in promoting one or more of its policies and or objectives or would be purely for fact finding.
13. Events which involve government ministers or other political figures and shadow ministers should usually be led by the leader or cabinet member with the Mayor informed or invited to lead as appropriate. Ward councillors and leaders of all the political parties should be invited where possible and appropriate.

Visits by local and other Members of Parliament (MPs)

14. There may be instances where local and other MPs who are not ministers will have a special interest in attending an event that is taking place in the borough. In this instance the MP in question may either be formally invited or merely informed about the event. Where the MP has not been specifically invited to attend, he or she should not expect to be treated as an "official" invitee.

Promotional publicity

15. Local authorities are authorised under the Local Government Act 1972 to publicise information as to the services provided by them or other local authorities in their area. Publicity can also be used to explain or justify the council's policies either in general, such as in the annual report, or on specific topics, for example as a background to consultation. However, any such publicity [should comply with the principles of the Code](#) ~~must be objective and factual.~~

Publicity of matters going before the cabinet, council assembly or any committee of the council

16. All matters going before the cabinet or committees for decision are publicised five clear working days before the meeting or seven clear working days in the

case of council assembly unless the report contains exempt information (i.e. information that has been judged by the proper officer as confidential). Some matters will obviously generate more press interest than others. Where the press is interested in a matter that is to be the subject of a decision by the council, the head of communications in conjunction with the relevant chief officer and cabinet member may issue a press release explaining the reasons behind the recommendations. Any such press release must be factual and objective. Members may be asked by the media to comment on this press release but should remember that whilst criticism of ideas and opinion is part of the democratic process, a member must comply with the code of conduct.

17. Where there has been misinformation about any of the council's policies or objectives the head of communications is authorised to take any appropriate corrective measures.

Scrutiny

18. Publicity about scrutiny will concentrate on factual information about which scrutiny exercises the council is conducting, who is involved, the process they will follow and the decisions they take. Where scrutiny suggests a course of action that differs to or challenges one agreed by the cabinet or any other council decision making body, this would be made clear in publicity together with the process for resolving the difference.

Contact with press

19. As outlined in the code of conduct for employees, employees and other staff should not communicate with press and other media unless authorised by the appropriate manager to do so.

Press releases

20. All press releases from the council must be agreed and signed off by the communication unit and issued either electronically or on council headed paper. Press releases containing quotes from members must be agreed and signed off by the appropriate member.

Social media

21. it is acceptable for the council to host social media, such as a blog, which itself contains links to external sites where the content would not itself comply with the code. However care needs to be exercised in that such links do not:
 - contain content that may result in actions for libel, defamation or other claims for damages
 - be used to process personal data other than for the purpose stated at the time of capture
 - be used in an abusive, hateful or disrespectful manner.
22. However particular care must be taken during the period before elections and referendums to ensure that no breach of any legal restriction takes place. It may be necessary to suspend the hosting of material produced by third parties or public forums during such periods.

Publicity during periods of heightened sensitivity elections

23. The code states that councillors and candidates in an election or referendum should not be provided with any form of publicity during the period between the notice of an election and the election itself.
24. Councillors in key positions should only comment on behalf of the council in an emergency.
25. Any publicity about events or services must be factual and not party political.
26. Any publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that it identifies them with individual councillors or groups of councillors or political parties.
27. The council should not produce publicity designed to influence the views of local people on petitions, referendums or specific proposals.
28. Councillors, MPs and candidates in the election may attend the public parts of council premises, even if they intend to use it as a photo opportunity, so long as any such attendance is not organised or funded from council resources and council equipment and employees are not involved.

The role of the communications unit

29. The communications unit works on behalf of the council and not for any political party. The purpose of its work is to provide high quality information about the council, its policies and its services and to maintain public confidence and where appropriate to protect and to promote the council's reputation. It aims to encourage better relationships with the local community. It is important to remember that all publicity and press releases are directed through the communications unit so these goals can be achieved.
30. The head of communications can advise members on how to deal with press enquiries, and how to arrange publicity for events, which can be properly publicised. Members have a remit to discover and make public inefficiency and poor public service; however, they should be careful where a matter they wish to make public relates to identifiable officers.
31. Publicity and information will cover areas such as why the council makes the decisions it does, and why other proposals are rejected. The communications unit will feature the decisions of the council, i.e. those decisions made by the council assembly, cabinet, scrutiny, planning or licensing committees or community councils, or those actions which have been taken within the broad policy framework already set by the council, subject to any call-in arrangements.

Obligations on officers in relation to documents being prepared for public consumption

32. Council staff and resources must not be used to arrange proactive events, such as photocalls, if they would provide politicians with a platform to communicate with the public that would not otherwise be available to them.

33. When considering whether a communication or publicity is safe to be put out officers should ask themselves whether the communication or publicity is objective, balanced, informative and accurate. If the answer is an unequivocal yes then the communication or publicity is safe to be put out.
34. Where officers are uncertain as to whether a communication or publicity is appropriate they should seek advice from the communications unit and the monitoring officer in those cases.
35. If something cannot go out as a member has suggested then officers can explain why and offer an alternative form of words. Again the communications unit or the monitoring officer can offer you guidance on what would be appropriate.

The role of the Mayor and Deputy Mayor

36. The Mayor is the first citizen of the borough and as such is apolitical. He or she is responsible for promoting the council as a whole and representing the council in civic and ceremonial events.
37. The Mayor is also responsible for chairing meetings of the council assembly and interpreting the constitution as necessary. Where the Mayor is unable to act or the office is vacant, the Deputy Mayor will discharge all of the Mayor's duties except that the deputy may not chair meetings of the council assembly unless specifically appointed to do so.

Key spokespeople

38. The role of the spokesperson is to present facts about council decisions, the context in which they were taken, actions, and issues faced by the council. Members who are key council spokespeople are the leader and deputy leader and cabinet members within their portfolio, the chair of overview and scrutiny committee, planning chair, licensing chair, chair of the relevant community council, standards chair and chair of the audit and governance committee. They will be quoted or featured in publicity where it relates to their responsibilities on the council.

Correspondence

39. Generally correspondence from one member should not be copied to, or discussed with, another member without the member's consent subject to any rights of access arising from the Freedom of Information Act 2000 and the Data Protection Act 1998. If a member has sought advice from an officer and included a circulation list, it can be assumed that the officer's response can be circulated to those people on the circulation list for the original letter, even if that list includes other members.
40. This does not prevent officers copying letters to each other about casework across ward or interest boundaries in order to respond to a member inquiry. Points of general interest to all members may be converted into general advice, and circulated (within the limitations set down in the Data Protection Act). A chief officer is also able to advise a relevant cabinet member in general terms of an issue raised with the chief officer in correspondence, or otherwise, by another member.

41. Official letters from the council should normally be sent out in the name of the appropriate officer rather than a member. It may be appropriate for members to write in certain circumstances (e.g. representations to a government minister); however, this would be the exception rather than the norm. Letters which create obligations or give instructions should not be sent out in the name of a member.

Postage

42. Preparation and postage of correspondence are a significant part of the support given to members. The content and purpose of letters, leaflets, and other correspondence must relate to the member's role in the authority. The members' services manager will arrange for monitoring arrangements to be put in place, and refer doubtful cases to the monitoring officer. ~~A facility exists to send out pre-paid reply envelopes with correspondence.~~
43. The use of council resources in the preparation and postage of the following kinds of post are not permitted:
- private mail including correspondence for other bodies
 - mailshots
 - letters sending out information (concerning planning application, refuse collection, etc) which is the responsibility of officers
 - letters which criticise other groups and their members or praise the writer or their political group
 - [group publicity such as political party greetings cards.](#)

For the avoidance of doubt, correspondence to residents about the location of surgeries by members who do not have a fixed location for their surgery shall not constitute a mailshot.

44. The question of what is a mailshot has proved problematic. Members are entitled to use council resources to respond to requests that their constituents have raised with them for action and explain what action has been taken, but not generally to publicise their work in the ward. Requests to send out large numbers of letters will have to show what demand is being responded to, and that the letter is a proportionate response to that demand. In any event, member services do not have the resources to send out more than one batch of such letters a month for any member. Members are reminded that this is a finite resource, and member services may need to limit the use of this if excessive costs are incurred.
45. Where members are uncertain as to whether a communication or publicity is appropriate they should seek advice from the head of communications and the monitoring officer in those cases.

Emails

46. Email and internet access facilities are provided to members to support work on council related activities. The standards set out for officers in the use of emails apply equally to members. The key standards are that:
- any behaviour or comment that is not permitted in the spoken or paper environment is also not permitted in an email message

- email messages should be inoffensive and should not be construed to harass
 - emails must not incite racial hatred or be pornographic in nature either in the body of the text or as an attachment
 - chain emails should not be forwarded on.
47. As a general rule, emails cannot be used for party political purposes but:
- emails organising the political group in relation to council business are allowed
 - the use of the email address in a party political leaflet to advertise a ward surgery or as a means of allowing residents to contact their ward members on non-party political matters is allowed
 - emails to newspapers as a means of commenting on council business from the political group's perspective are allowed.
48. [Members should note the requirements for social media are given in paragraphs 21 and 22.](#)
49. Members should remember that emails may be subject to disclosure if a request is made under the Freedom of Information Act 2000.
50. Any use of IT resources, including email and the internet, that contravenes any legislation (such as the Data Protection Act 1998; the Computer Misuse Act 1990; and the Copyrights, Designs and Patents Act 1988 (amended 2002)); or breaches the general obligations of the code of conduct for members; or breaches council policies on information security is considered to be unacceptable. Members are responsible for the content of any email sent from your username and in certain circumstances the council may also be found liable for the content of such email.
51. Emails and other personal information should be retained only for the minimum period necessary, in accordance with the Data Protection Act 1998. Further details on the Data Protection Act in term of members' business use can be obtained from legal services.
52. It is important that members manage the information that they store to ensure its availability, confidentiality and integrity. Therefore members should regularly review all council information (including files and email messages) they hold and delete all redundant or irrelevant data.
53. Where a telephone number has been issued to a member or group of members it is expected that this number will be publicised except on political publicity material.

Item No. 3.6	Classification: Open	Date: 18 May 2011	Meeting Name: Council Assembly
Report title:		Member Allowances Scheme 2011/12	
Ward(s) or groups affected:		All	
From:		Constitutional Steering Panel	

RECOMMENDATIONS

1. That Council Assembly considers and notes the recommendations set out in latest report of the Independent Panel together with the officer comments (see Appendix A).
2. That the Constitutional Steering Panel recommends that Council Assembly adopts a revised Member Allowances Scheme for the forthcoming year (see paragraphs 7-24 of this report).

BACKGROUND INFORMATION

3. The current scheme was last amended by council assembly on 19 May 2010 by way of changes to special responsibility allowances (SRAs). Prior to then rates had been agreed for a period of four years (2007-11). The current scheme expires at the end of May 2011. On 3 May 2011 the Constitutional Steering Panel received a report on a Member Allowances Scheme 2011/12. The Constitutional Steering Panel noted the recommendations set out in the latest report of the Independent Panel together with the officer comments (see Appendix A). The panel agreed to recommend a revised scheme to Council Assembly for adoption.
4. The Local Government & Housing Act 1989 and the Local Authorities (Members' Allowances) (England) Regulations 2003 require authorities to make a scheme for payment of allowances to councillors. The regulations do not set the amounts that can be paid.
5. Before making, amending or reworking its allowance scheme, the council is required, by the Regulations, to have regard to the recommendations of an independent remuneration panel. The council is not, however, bound to adopt all or any of the panel's recommendations provided it has given them due consideration and is satisfied that it has justifiable reasons for not doing so. The current independent panel report recommendations with officer comments are set out in appendix A. The report in full is available as a background paper or online at the London Council's website.
6. As with the body of the constitution, circumstances have changed and experience gained by the operation of the scheme has highlighted anomalies and difficulties. These are addressed in this report.

KEY ISSUES FOR CONSIDERATION

7. Proposed amendments to the scheme (changes/additions in **bold**) are set out below and paragraph references in the tables are to the paragraphs in the current scheme. Unless noted all other paragraphs remain unaltered. Consequential changes such as titles, paragraph renumbering and references will be made by the Monitoring Officer.

Introduction

8. A number of members have expressed confusion as to the nature of allowances and tax deductions etc. and seek officer assistance in dealing with their tax liability. The council cannot answer or take up any personal tax issues on behalf of members and this should be made clear in the scheme.

Para	Existing scheme	Proposed scheme
	None	Allowances are not salaries but are subject to tax and national insurance as any allowance is considered as income. Any such deductions are subject to personal circumstances. Members should note that the council is unable to deal with personal tax enquiries on their behalf and should inform their tax office of any change in circumstances.

9. Although the scheme refers to the role of the independent panel it does not identify the relevant panel.

Para	Existing scheme	Proposed scheme
2	Before making, amending or reworking its allowance scheme, the council is required to have regard to the recommendations of an independent remuneration panel. The council is not, however, bound to adopt all or any of the panel's recommendations provided it has given them due consideration and is satisfied that it has justifiable reasons for not doing so.	Before making, amending or reworking its allowance scheme, the council is required to have regard to the recommendations of an independent remuneration panel. The council is not, however, bound to adopt all or any of the panel's recommendations provided it has given them due consideration and is satisfied that it has justifiable reasons for not doing so. For this authority the relevant independent panel is the London Councils Panel.

10. From time to time some members elect not to receive their full allowance(s). The scheme is not as explicit as it might be in this regard referring only to the notification process. Although applying to all allowances this is currently noted only under the provision for basic allowances.

Para	Existing scheme	Proposed scheme
6	If a member wishes to waive their right to receive a basic allowance, or any other allowance under the scheme, they must notify the monitoring officer in writing.	Members do not have to take their allowance(s) - if a member wishes to waive their right to receive a basic allowance, Special Responsibility Allowance, any other allowance, or part thereof, they must notify the monitoring officer in writing.

11. The current scheme refers to pro rata payments for members serving less than a full year. This has sometimes proved difficult with payments made in advance i.e. payment around the 20th of each month for the period to the end of the month. In addition some members where roles have changed have requested that pro rata adjustments be made based on the number of days in the relevant month. The Regulations require pro rata payments to be calculated as a proportion of the number of days in the year. Recovery of small amounts of overpayments often present administrative difficulties and has been reasonably waived previously for example on the death of a councillor. The scheme should be amended to reflect the Regulations

more specifically and note arrangements for recovery of any overpayment. Similarly any in year changes to allowance rates should be linked to a specified implementation date. The pro rata payment arrangement is currently noted separately under basic allowance and SRAs and these should be combined.

Para	Existing scheme	Proposed scheme
5	<p>If a member of the council does not serve for the whole of the 12 month period, or becomes disqualified, they will only be entitled to pro-rata payments for the period(s) during which they were actually a serving member of the council.</p> <p>SRAs are paid monthly. If a member of the council does not serve as an elected member for the whole of the 12 month period, or becomes disqualified they will only be entitled to pro rata payments for the period(s) during which they undertake the duties. Except in the case of eligible special leave, if a member of the council ceases to perform the duties for which the allowance is payable, they will only be entitled to pro rata payments for the period(s) during which they undertake the duties. Similarly, if the scheme is amended so as to affect entitlement, the allowance will be paid pro rata.</p>	<p>Replace paragraphs 5 and 9 with:</p> <p>Allowances are paid monthly in equal instalments. If a member of the council does not serve for the whole of the year, becomes disqualified or ceases to be entitled to an SRA, they will only be entitled to payments for the proportion of the number of days served in that year. Overpayment of SRAs for continuing members will be automatically deducted from the basic allowance. Other overpayments must be repaid to the authority. If the scheme is amended so as to affect entitlement any variation will be paid from an agreed date only. Retrospective payments will not be made to members who are no longer serving.</p>

12. Since the scheme was last agreed members have approved the publication of additional information relating to members' expenses and this should be noted in the scheme.

Para	Existing scheme	Proposed scheme
10	<p>In accordance with the Local Authorities (Members Allowances) (England) Regulations 2001, the council is required to publish details of any basic and special responsibility allowances paid to councillors for the previous financial year, along with details of the allowances scheme which applied at that time.</p>	<p>In accordance with the Local Authorities (Members Allowances) (England) Regulations 2003, the council is required to publish details of any basic and special responsibility allowances paid to councillors for the previous financial year, along with details of the allowances scheme which applied at that time. This statutory notice also includes details of subsistence, travel and carer's allowance. In addition the council publishes further information regarding members' expenses.</p>

Basic allowance

13. No change is required to the basic allowance as it is fixed to the rate of the national local government pay settlement, now subject to a two year pay freeze. The figure will remain at £10,599 unless members specifically agree to change it.

Special responsibility allowance

14. The Leader and members of the cabinet may have reduced levels of allowances paid based on the average number of hours the member is employed elsewhere. The current thirds system allows members to elect to work a fixed but arbitrary number of hours without affecting their SRA or with set reductions. It is not clear whether other employment needs to be paid. Members may wish to consider a voluntary system where there is no stated reduction but members elect not to receive their full allowance irrespective of the number of hours worked elsewhere.

Para	Existing scheme	Proposed scheme
8	<p>The level of allowance paid to a band 3 or band 4 member is dependent on the average number of hours per week the member is employed elsewhere, as set out below:</p> <ul style="list-style-type: none"> • less than 11 hours elsewhere, full SRA; • 11 to 24 hours elsewhere, two thirds SRA; • more than 24 hours elsewhere, one third SRA. 	<p>The level of allowance paid to a band 3 or band 4 member is reduced by half if the member is, during normal office hours, in paid employment elsewhere.</p>
9	<p>SRAs are paid monthly. If a member of the council does not serve as an elected member for the whole of the 12 month period, or becomes disqualified they will only be entitled to pro rata payments for the period(s) during which they undertake the duties. Except in the case of eligible special leave, if a member of the council ceases to perform the duties for which the allowance is payable, they will only be entitled to pro rata payments for the period(s) during which they undertake the duties. Similarly, if the scheme is amended so as to affect entitlement, the allowance will be paid pro rata.</p>	<p>Replace with:</p> <p>Except in the case of eligible special leave, if a member of the council ceases to perform the duties for which the allowance is payable, they will only be entitled to pro rata payments for the proportion of the number of days served in that year which they undertake the duties.</p>
10	<p>In accordance with the Local Authorities (Members Allowances) (England) Regulations 2001, the council is required to publish details of any basic and special responsibility allowances paid to councillors for the previous financial year, along with details of the allowances scheme which applied at that time.</p>	<p>Delete</p>

Approved duties

15. Under current contract standing orders members are not required to be present at tender openings.

Para	Existing scheme	Proposed scheme
20	<p>For a member, an approved duty for the purpose of travel, subsistence and childcare and dependant carers allowances means:</p>	<p>Delete paragraph 20 (e)</p>

Para	Existing scheme	Proposed scheme
	<p>a) attendance at a meeting of the council or of any committee or subcommittee of the council, or of any other body to which the council makes appointments or nominations, or of any committee or subcommittee of such a body, provided they are a member of the body concerned;</p> <p>b) attendance at any other meeting, the holding of which is authorised by the council, or a committee or subcommittee of the council or a joint committee of the council, or a subcommittee of such a joint committee, provided that it is a meeting to which members of at least two political groups have been invited;</p> <p>c) attendance at a meeting of any association of authorities of which the council is a member;</p> <p>d) attendance at a meeting of the executive or of any of its committees;</p> <p>e) attendance at tender openings, where this is required by the council's procedure rules;</p> <p>f) performance of any duty in connection with the discharge of a function of the authority empowering or requiring the inspection of premises;</p> <p>g) performance of any duty in connection with arrangements made by the authority for the attendance of pupils at special schools;</p> <p>h) any other duty approved by the council for the purpose of, or in connection with, the discharge of the functions of the council, or any of its committees or sub-committees; and,</p> <p>i) any duty for the purpose of or in connection with the discharge of the functions of the cabinet.</p>	

Withholding allowances

16. Standards Committee currently can withdraw allowances in the event of a member being suspended. There is no provision for withholding allowances if a member fails to attend required training or for co-opted members who fail to attend meetings. A separate report to Standards Committee on the Localism Bill and the abolition of the current standards regime suggests that the allowance scheme may provide a route for dealing with standards issues. Council Assembly can approve the reason for non-attendance at meetings of the authority. However it has no authority to consider whether allowances should continue to be paid. Whilst it is acknowledged that all previous decisions have related to a member's ill health this may not always be the case.

Para	Existing scheme	Proposed scheme
23	The standards committee may withdraw allowances in whole or in	The standards committee may withdraw allowances from individual members

Para	Existing scheme	Proposed scheme
	part in the event of a member being suspended or partially suspended. All allowances should be withheld for the period of total suspension.	(including independent members of standards committee and co-opted members) in whole or in part as part of any sanction in relation to a breach of conduct, for non-attendance at meetings, or, for elected members only, for failure to attend required training. Withheld allowances are not repayable/recoverable.
24	In the case of partial suspension: <ul style="list-style-type: none"> the basic allowance should continue to be paid (though the council expects a member voluntarily to abate their claim according to the extent to which they were able to continue to fulfil the functions of a nonexecutive member). to the extent that the partial suspension made it impossible or impracticable for a member to undertake activities in respect of which a special responsibility allowance was payable, that allowance should be withdrawn. 	Delete paragraph 24
	None	Standards committee may also consider the withdrawal of allowances for a member given approval by council assembly for a failure to attend, subject to a referral being made by council assembly.

Amendments to the allowances scheme

17. For at least the last five years SRAs have been fixed by Council Assembly and have not been subject to the national local government pay settlement. Index linking on the basic allowance ended in June 2010. It is recommended that in future basic allowances continue to be linked to the national local government pay settlement. The Constitutional Steering Panel sought clarification that index linking is to the general settlement rather than any special provision for particular groups of staff such as the low paid. Officers undertook to reword the proposed scheme to make this point clear. As officers' pay is frozen for the year 2011/12, this implies no increases in the basic allowance for members.

Para	Existing scheme	Proposed scheme
32	Levels of basic, special responsibility and financial loss allowance are adjusted in accordance with the local government pay settlement. This index linking will continue until June 2010.	Basic allowance and travel, subsistence and carers allowances are adjusted in accordance with the national local government pay settlement and allowances for officers. SRA levels are set by Council Assembly and are not subject to inflationary adjustments. Footnote: Index linking is to the general settlement rather than any special provision for particular groups of staff such as the low paid.

Allowances

18. Members should note that some positions or the number of positions attracting an SRA may change as a result of implementing the budget or changes to the national framework. Any such changes should be regarded as consequential and will be implemented by the Monitoring Officer at the appropriate time.
19. At constitutional assembly in 2010 council assembly considered the possible addition of deputy cabinet members and asked for proposals to be made to it. These proposals form part of the separate report on the constitutional review. It is proposed that the role of deputy should attract an SRA. The Local Authorities (Members' Allowances) (England) Regulations 2003 provides, under section 5.1i, for an SRA to be paid for carrying out "such other activities in relation to the discharge of the authority's functions as require the member an amount of time and effort equal to or greater than would be required for any other specified activity" (these include chairing committees, representing the council and acting as a spokesperson). For simplicity it is recommended that the level of SRA should be in line with existing bands and that band 1a applies.

Para	Existing scheme	Proposed scheme
35	Band 1a	Add Deputy Cabinet Members to the list

Travel allowances

20. For the sake of clarity the two sections covering travel allowances should be combined.
21. Members can either claim travel expenses actually incurred or make booking arrangements through member services. Out of borough travel expenses should be agreed by the relevant whip before any journey is undertaken. Details of expenditure incurred by individual members through either route are published.
22. Members who claim the fixed cycle allowance (whether they have taken part in the Bikes4Work scheme or not) should not normally be able to claim any other travel allowance for official duties within the borough.

Para	Existing scheme	Proposed scheme
40	Pedal cycles: Monthly cycle allowance is payable for councillors, independent and co-opted members who use their own cycles in connection with their official duties. The rate is currently £20 per month.	A monthly cycle allowance is payable to councillors, independent and co-opted members who use their own cycles in connection with their official duties. The rate is currently £20 per month. Members must notify the Monitoring Officer of their intention to claim this allowance as unlike other travel allowances it is not paid as an expense. Except in circumstances agreed by the Monitoring Officer members in receipt of the cycle allowance may not claim other travel allowances. Except in circumstances agreed by the Monitoring Officer members who have taken advantage of the Bikes4Work scheme are required to use their cycle for normal council business whether they claim the

Para	Existing scheme	Proposed scheme
		cycle allowance or not and will not be eligible to claim other travel allowances.

Subsistence allowance

23. For the sake of clarity the two sections covering subsistence allowances should be combined.

Summary list of approved duties

24. The summary list gives examples of eligible meetings and in part duplicates the section on approved duties. The full list is set out under paragraph 16 of this report. The Regulations provide for travel and subsistence allowance to be paid for, among others, attendance at meetings for the carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority or of any of its committees or sub-committees. It would be useful if members would confirm the approved duties as currently listed, including those such as neighbourhood forums, which may be attended by members of one political group only, and thus excluded by virtue of paragraph b of the section on approved duties. The two sections should nonetheless be combined. The current summary list is set out below.

Para	Summary list of approved duties
54	The following is a list of approved duties: a) Attendance at council, committee or sub-committee meetings b) Attendance at neighbourhood forums that fall within the member's ward c) Attendance at tenants' council and leaseholders' council d) Attendance at licensing or planning committees as a ward representative e) Attendance at a meeting of a body to which the member has been nominated by the council.

Resource implications

25. There are no additional resource requirements associated with the adoption of a revised scheme.
26. The proposed introduction of SRAs for deputy cabinet members, assuming a maximum of four, can be contained within existing budgets if the number of cabinet members is maintained at the current reduced number.

Legal implications

27. Legal issues are outlined in the body of the report.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Southwark Constitution 2011	On-line on council's website	Ian Millichap 020 7525 7225

APPENDICES

Appendix	Title
Appendix A	Independent panel report recommendations with officer comments

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Communities, Law & Governance	
Report Author	Graham Love, Head of Democratic Services	
Version	Final	
Dated	5 May 2011	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Strategic Director of Communities, Law & Governance	Yes	Yes (included in body of report)
Cabinet Member	No	No
Date final report sent to Constitutional Team		5 May 2011

Independent panel report recommendations with officer comments

The Report of the Independent Panel 2010 made 12 recommendations, set out in full below.

1. We believe that the scheme of allowances that the panel recommended in 2001, updated in line with local government pay awards, is still appropriate. At appendix A we set out the five bands of responsibility with updated figures for the basic allowance and for the five bands.

Comment

Not all positions attracting an SRA are defined by London Councils i.e. Deputy Mayor. Basic and Band 1 SRAs are within the London Council's range, Band 2a is about £1000 less than the lower end of the range, Band 2b is within the range, Band 3 is about £1000 less than the lower end of the range, Band 4 is about £4000 less than suggested.

2. We continue to believe that the roles identified in the 2006 report as attaching to the bands are still, in general terms, appropriate. Consultation has suggested other roles, but most are covered by the 2006 recommendations. We have added to the role descriptions in band one 'community leaders' and 'leaders of a specific major project'. We appreciate that such responsibilities can provide development opportunities for the leaders of the future and are analogous to other responsibilities within band one. We also recommend the inclusion of 'acting as a member of a committee or sub-committee which meets with exceptional frequency or for exceptionally long periods' and 'acting as a member of an adoption panel where membership requires attendance with exceptional frequency or for exceptionally long periods'.

Comment

The only role recognised as meeting exceptionally frequently is that of licensing committee and the current scheme provides for payment for each meeting attended. This was implemented as a more efficient process than that of the previous SRA payments. It is not recommended that we revert to the SRA but members may wish to consider the rate of the fixed payment.

3. With changes in local government structure and organisation, we accept that some cabinet roles may be more demanding than others. Although it may be sensible for many councils to remunerate cabinet members at the same level, we believe that there is sufficient width in band three to permit councils to recognise different levels of responsibility within the cabinet where this is appropriate.

Comment

There is currently no SRA distinction between cabinet portfolios.

4. In return for the levels of remuneration which we propose, it is important that councillors account publicly for their activities. We believe that:

- a. role descriptions should be developed for councillors for all their areas of work;
- b. the role descriptions should be placed on council websites;
- c. members should report publicly on their activity through a variety of channels as illustrated in the main report; and
- d. councils should consider the introduction of an appraisal system for members.

Comment

The council has never agreed to a form of job description for members. The portfolios of cabinet members are published as part of the constitution. The main report refers to examples of good practice identified in their 2006 report. A number of these examples have been adopted within Southwark or are a part of our normal constitutional practice. One

suggestion, that each member has their own website, has not been supported by the council although a number of members do operate their own or have links through group pages.

5. Councillors who, without reasonable cause, fail to discharge their duties should not claim the basic allowance. We believe that the legislation requiring only an attendance at a council meeting every six months should be tightened.

Comment

It remains a personal choice under the current scheme to claim any allowance. There would be some difficulty in ascertaining whether a member had failed to discharge their duties unless connected to a complaint. There has been no change in legislation.

6. We endorse the recommendations of the 2006 report in relation to the chair and members of the standards committee.

Comment

The 2006 report proposed an allowance based on a fixed rate for each meeting. Southwark translated this into a fixed sum and SRA. No additional payments are made for independent members chairing sub-committees. With proposed changes to the standards regime there seems little benefit in making any changes now.

7. We reiterate our view that only one SRA should be paid to a councillor in respect of duties with the same authority.

Comment

The scheme provides for only one SRA to be paid.

8. Although councillors are not employees, we believe that it is reasonable that their special responsibility allowances should not cease in case of sickness, maternity and paternity leave in the same way that employees enjoy such entitlements. We continue to recommend that councils should be able to make arrangements in their schemes in appropriate circumstances to enable this to happen.

Comment

The current scheme provides for special leave for SRA holders.

9. We continue to recommend that the allowances we recommend should be updated annually in accordance with the headline figure in the annual local government pay settlement. We appreciate that Regulation 10(1) of the Local Authorities (Members' Allowances) (England) Regulations 2003 appears to require re-adoption of the scheme at the start of each municipal year. However Regulation 10(4) provides that the scheme will not be deemed amended by virtue only of adjustment of the scheme through indexation. If there is no other change a re-adoption can be achieved by a simple resolution.

Comment

This will not be relevant in the foreseeable future as the current freeze on local government pay will apply for at least two years.

10. While we continue to believe that intra-borough travel should be part of the basic allowance, we recognise that there are circumstances where it may be appropriate for a scheme to provide payment for the cost of transport e.g. journeys home after late meetings and for people with disabilities. In the case of dispute, we believe that the standards committee could adjudicate.

Comment

The current scheme provides exceptions for intra-borough travel as noted. The scheme defines the duties that are approved for travel allowance.

11. We strongly believe that there is need for rationalisation in the tax treatment of expenses borne by councillors and recommend that the Local Government Association be asked to

pursue that at the national level, or failing that, London Councils attempt to achieve rationalisation on behalf of London.

Comment

Not an issue for the council.

12. We have consistently recommended that eligible councillors should be eligible for admission to the local government pension scheme and we continue to urge that councils should give their members this opportunity.

Comment

Members have previously agreed not to join the LGPS. In 2007 it was estimated that the cost to the council of members joining the scheme was about £140k a year. The LGPS is a contributory scheme and would require members to pay 6% (non-taxable) of their allowance. The scheme as applied to councillors is a career average scheme rather than a final salary scheme. Further details of the scheme are available online:

<http://www.lge.gov.uk/lge/core/page.do?pagelId=8518952>

**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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Group Offices		Ian Millichap	1
John Bibby, Cabinet Office	1	Sonia Sutton	1
Steven Gauge, Opposition Group Office	1	Robin Campbell	1
		Doreen Forrester-Brown	1
Local Studies Library	1		
Press	2	Constitutional Team	31
Southwark News	1	(6 copies to Lesley John , 2 nd Floor, Hub 4, Tooley Street and 25 copies to Lesley John, Town Hall, Peckham)	
South London Press	1		
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Gill Davies	1	Michael Davern, NUT	1
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Duncan Whitfield	1	Pat Reeves, ATL	1
Susannah White	1	Miss Sylvia Morris, NAHT	1
Gerri Scott	1	Irene Bishop, ASCL	1
		Mick Young TGWU	1
		Local M.P.	1
		Simon Hughes M.P.	
		Others	2
		Shahida Nasim, Audit Commission, Ground Floor, Tooley Street	1
		Mr. Mark Roelofsen	1
		Total:	123