

## Council Assembly Annual Meeting

Wednesday 23 May 2012  
7.00 pm  
The Atrium, 160 Tooley Street, London SE1 2QH

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

Eleanor Kelly  
Acting Chief Executive

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### INFORMATION FOR MEMBERS OF THE PUBLIC

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#### Contact

Lesley John on 020 7525 7228 or 020 7525 7222 or email: [lesley.john@southwark.gov.uk](mailto:lesley.john@southwark.gov.uk);  
[andrew.weir@southwark.gov.uk](mailto:andrew.weir@southwark.gov.uk); [constitutional.team@southwark.gov.uk](mailto:constitutional.team@southwark.gov.uk)

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Date: 11 May 2012



# **Council Assembly Annual Meeting**

Wednesday 23 May 2012  
7.00 pm  
The Atrium, 160 Tooley Street, London SE1 2QH

## **Order of Business**

<b>Item No.</b>	<b>Title</b>	<b>Page No.</b>
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### **PART A - OPEN BUSINESS**

#### **1. ELECTION OF THE MAYOR**

To elect a Mayor for the 2012/13 Municipal Year.

Note: At 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**

To receive any announcements from the Mayor, members of cabinet or chief executive.

##### **2.2. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE MAYOR DEEMS URGENT**

In special circumstances an item of business may be added to an agenda within seven working days of the meeting.

##### **2.3. DISCLOSURE OF INTERESTS AND DISPENSATIONS**

Members to declare any personal interest and dispensations in respect of any item of business to be considered at this meeting.

##### **2.4. APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

<b>Item No.</b>	<b>Title</b>	<b>Page No.</b>
	<b>2.5. MINUTES</b>	
	To approve as a correct record the open minutes of the council assembly meeting held on 28 March 2012 (to be circulated separately).	
<b>3.</b>	<b>OTHER REPORTS</b>	
	<b>3.1. EXECUTIVE FUNCTIONS 2012/13</b>	1 - 4
	Council assembly is asked to note the appointment by the leader of cabinet portfolio members and the leader's report on the delegation of executive functions.	
	<b>3.2. ESTABLISHMENT OF COMMITTEES, COMMUNITY COUNCILS AND OTHER CONSTITUTIONAL ISSUES 2012/13</b>	5 - 48
	Council assembly is asked to establish committees and consider other related constitutional issues for 2012/13.	
	<b>3.3. NOMINATIONS TO LONDON COUNCILS COMMITTEES, GREATER LONDON EMPLOYMENT FORUM AND NOMINATIONS OF LEAD BOROUGH MEMBERS 2012/13</b>	49 - 54
	Council assembly is asked to agree nominations to the London Councils Committees, Greater London Employment Forum and nominate lead borough members.	
	<b>3.4. CONSTITUTIONAL REVIEW 2012/13</b>	55 - 155
	Council assembly is asked to consider changes to the constitution as recommended by the constitutional steering panel.	
	<b>3.5. MEMBER ALLOWANCES SCHEME</b>	156 - 159
	Council assembly is asked to adopt a revised member allowances scheme.	
<b>4.</b>	<b>AMENDMENTS</b>	
	Amendments will be circulated in a supplemental agenda.	
<b>5.</b>	<b>ANY OPEN ITEMS IDENTIFIED AS URGENT AT THE START OF THE MEETING</b>	
	<b>EXCLUSION MOTION (IF NECESSARY)</b>	

**Item No.**

**Title**

**Page No.**

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.”

Date: 11 May 2012

<b>Item No.</b> 3.1	<b>Classification:</b> Open	<b>Date:</b> 23 May 2012	<b>Meeting Name:</b> Council Assembly (Annual Meeting)
<b>Report title:</b>		Executive Functions – 2012/13	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Strategic Director of Communities, Law & Governance	

## RECOMMENDATIONS

1. That council assembly consider the following executive issues for the coming municipal year 2012-13:
  - Notes the appointment by the leader of cabinet portfolio members
  - Notes the appointment of any deputy cabinet members
  - Notes the establishment and appointment of any cabinet committees
  - Notes the leader's report on changes to 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 two and nine members to form a cabinet.
  3. The leader must appoint a deputy leader.

### Appointment of deputy cabinet members

4. That the leader reports to council assembly on the appointment of deputy cabinet members and determination of their duties and responsibilities.

- Note:* The leader will report on any changes to deputy cabinet members and on individual responsibility for specific tasks designated by the leader, following consultation with the monitoring officer.

### Establishment and appointment of cabinet committees

5. 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**

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

### **BACKGROUND INFORMATION**

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

### **KEY ISSUES FOR CONSIDERATION**

#### **Leader and cabinet**

9. 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.
10. 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
11. 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**

12. Each year the elected leader must appoint their cabinet. In accordance with the constitution this can consist of a minimum of two and up to a maximum of nine nominated members, whose portfolios are determined and allocated by the leader. The leader must appoint a deputy leader.
13. 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.

14. 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.
15. The leader will also report on the appointment of any deputy cabinet members and determine their roles. Deputy cabinet members may hold responsibility for specific tasks designated by the leader, in consultation with the monitoring officer. Deputy cabinet members cannot take part in any formal decision making.
16. 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**

17. 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**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Appointment of Leader and Executive, Establishment of Committees and Other Constitutional Issues 2010/11 Council Assembly May 2011 report	160 Tooley Street, London, SE1 2TZ	Ian Millichap 020 7525 7225

#### **APPENDICES**

<b>Appendix</b>	<b>Title</b>
None	

**AUDIT TRAIL**

<b>Lead Officer</b>	Deborah Collins, Strategic Director of Communities, Law & Governance	
<b>Report Author</b>	Ian Millichap, Constitutional Manager Lesley John, Constitutional Officer	
<b>Version</b>	Final	
<b>Dated</b>	8 May 2012	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Strategic Director of Communities, Law & Governance	Yes	Yes (included in body of report)
Finance Director	No	No
<b>Cabinet Member</b>	No	No
<b>Date final report sent to Constitutional Team</b>	8 May 2012	



<b>Item No.</b> 3.2	<b>Classification:</b> Open	<b>Date:</b> 23 May 2012	<b>Meeting Name:</b> Council Assembly (Annual Meeting)
<b>Report title:</b>		Establishment of Committees, Community Councils and Other Constitutional Issues – 2012/13	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Strategic Director of Communities, Law & Governance	

## RECOMMENDATIONS

1. That council assembly consider the following constitutional issues for the coming municipal year 2012/13:
  - 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 council's panels including council assembly business panel, constitutional steering panel and voluntary bodies appointments panel
  - Agree dates of council assembly meetings for 2012/13
  - 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 tables below are based on the assumption that the same committees are established in 2012/13 as existed in 2011/12, subject to the change in membership of the audit and governance committee and the changes to the standards regime. For 2012/13 the annual meeting is required to consider taking two separate decisions on the proportionality of committees:

- 1) Committees which will operate until 30 June 2012 whilst the current standards regime applies (see Table 1)
- 2) Committees from 1 July 2012 when the new standards regime takes effect (see Table 2).

**Table 1 - Until 30 June 2012: Total number of seats: 28**

Committee	Total	Lab	Lib Dem	Con
Committee 1 Appointments Committee	7	4	3	0
Committee 2 Planning Committee	7	4	3	0
Committee 4 Audit and Governance Committee	7	4	2	1
Committee 5 Corporate Parenting Committee	7	4	3	0
<b>Total</b>	<b>28</b>	<b>16</b>	<b>11</b>	<b>1</b>

*Note on Table 1: In the period until the end of June 2012, the annual meeting would establish a standards committee comprised of six councillors, with seats allocated to political groups as follows:*

- *Labour 3 places*
- *Liberal Democrat 2 places*
- *Conservatives 1 place.*

*See recommendations 9 to 13 below.*

**Table 2 - From 1 July 2012: Total number of seats 37**

Committee	Total	Lab	Lib Dem	Con
Committee 1 Appointments Committee	7	4	3	0
Committee 2 Planning Committee	7	4	3	0
Committee 3 Standards Committee	9	5	3	1
Committee 4 Audit and Governance Committee	7	4	2	1
Committee 5 Corporate Parenting Committee	7	4	3	0
<b>Total</b>	<b>37</b>	<b>21</b>	<b>14</b>	<b>2</b>

*General notes on committees:*

1. *The size and composition of the council's regulatory and other committees known as "ordinary committees" is set out above. 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.*

3. *At least one member of the cabinet shall serve on the appointments committee.*
4. *The constitution states 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. The chair may be a deputy cabinet member as this role does not include the exercise of any delegated powers. 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 2011/12 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.*

### **Overview and scrutiny committee**

4. That council assembly establishes an overview and scrutiny committee, with a total of 11 seats with the following proportionate allocation of seats:
  - 6 Labour
  - 4 Liberal Democrat
  - 1 Conservative.

- Notes:*
1. *The current overview and scrutiny procedure rules provide that the overview and scrutiny committee will consist of the chair, vice chair and the chairs of the scrutiny sub-committees provided that the proportionality rules are not compromised. Each political group is permitted to nominate members who are not cabinet members should it be necessary to maintain proportionality and/or if there are fewer chairs of scrutiny sub-committees than places on the overview and scrutiny committee. In 2011/12 council assembly constituted a committee of this size and allocation of seats*
  2. *The overview and scrutiny committee and any sub-committee which scrutinises the council's education functions will contain in its membership four voting education representatives in addition to its councillor members, comprising one Church of England, one Roman Catholic Church and two parent governor representatives.*
  3. *No member of the cabinet shall serve on any scrutiny committee.*

### **Community councils**

5. That in line with the council assembly decision of 29 February 2012, the community councils be established as set out below:
  - Bermondsey and Rotherhithe
  - Borough, Bankside and Walworth

- Camberwell
- Dulwich
- Peckham and Nunhead.

### **Licensing committee**

6. That council assembly establishes a licensing committee with a total of 15 seats with the following allocation of seats:

- 8 Labour
- 6 Liberal Democrat
- 1 Conservative.

*Note: In 2011/12 council assembly agreed to establish the committee on a proportionate basis comprising: 8 Labour, 6 Liberal Democrat and 1 Conservative.*

### **Licensing sub-committee**

7. 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**

8. 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
- Audit and governance committee
- Corporate parenting committee\*
- Standards committee (effective from 1 July 2012)

#### **Community councils**

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

*Notes: \* In 2011/12 the cabinet member responsible for children's services chaired the corporate parenting committee. Council assembly is asked to formally approve this appointment in 2012/13.*

*All outstanding appointments will be referred to the first meeting of the respective committee or community council in the 2012/13 municipal*

year.

### **Establishing a standards committee (until 30 June 2012)**

9. That until 30 June 2012, a standards committee be established under the Local Government Act 2000.
10. That council assembly notes the current 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 agrees to establish a standards committee comprising of six councillors and the five independent members up until 30 June 2012. The seats to be allocated to political groups as follows:
  - Labour 3 places
  - Liberal Democrat 2 places
  - Conservatives 1 place.
11. That 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 standards committee.
12. That in accordance with the constitution, the election of chair and vice chair of the standards committee (until 30 June 2012) takes place at its first meeting in the 2012-13 municipal year.
13. That the terms of office of the following independent members be extended to allow them to serve on the standards committee after annual council until 30 June 2012:

#### *Name of independent member and term of office on appointment*

- Peter Bibby - until annual council May 2012 (1<sup>st</sup> term)
- Wendy Golding - until annual council May 2012 (2<sup>nd</sup> term).

*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 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.*

### Establishing a standards committee (from 1 July 2012)

14. That it be noted that a new standards committee under the new regime will be established with effect from 1 July 2012 (see recommendation 3).

### Establishment of the council's panels

15. That council assembly establishes the following council panels (see paragraph 54 and Appendix 5):
- **Council assembly business panel** – The panel is chaired by the Mayor and also consists of one representative from each political group. The panel acts as an advisory panel to the Mayor on council assembly, including the annual programme and the setting of themes for debate. Groups can nominate a reserve to attend in the absence of a representative.
  - **Constitutional steering panel** – 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.
  - **Pensions advisory panel** – The panel has a composition of members, officers, independent advisors and a trade union representative. The purpose of the panel is to advise the advice to the finance director when performing functions relating to the council's pension scheme.
  - **Voluntary bodies appointment panel** – The panel has a composition of three Labour and two Liberal Democrat members. 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. In 2011/12 the panel of five members, which was established by council assembly, comprised three Labour and two Liberal Democrat councillors.

### Council assembly dates

16. 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 2012/13:

**Table 3 – Dates of council assembly meetings 2012/13**

<b>Council Assembly Meetings 2012/13</b>	<b>Theme</b>
Wednesday 4 July 2012	Health in Southwark
Wednesday 17 October 2012	Opportunities for young people, including youth employment
Wednesday 28 November 2012	Transport in Southwark

<b>Council Assembly Meetings 2012/13</b>	<b>Theme</b>
Wednesday 30 January 2013	Affordable housing and social housing
Wednesday 27 February 2013	Budget and council tax setting
Wednesday 27 March 2013	Tbc
Wednesday 22 May 2013	Annual meeting (Mayor making & constitutional)

### **Council calendar**

17. That the calendar of council meetings for the 2012/13 municipal year ahead as shown at Appendix 6 be noted.

### **Appointments to Local Government Association General Assembly**

18. That council assembly appoints up to three representatives and allocates five votes to the representatives to the LGA General Assembly (see Appendix 7).

### **Other appointments to joint committees/outside bodies**

19. That council assembly notes the cabinet and other committees will make appointments to all other outside committees and bodies for the municipal year 2012/13 as required by part 3S of the constitution.

### **Urgency committee**

20. 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**

21. The constitution is updated annually and the recommendations in this report are based on the current constitution and previous decisions of the council. In a number of cases, officers are aware that amendments are likely to be submitted which might impact on the establishment of committees and/or community councils.

### **KEY ISSUES FOR CONSIDERATION**

#### **Proportionality – the legal position**

22. 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.
23. 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, audit and governance and corporate parenting (and with effect from 1 July 2012, the standards committee). The total number of seats on these 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 the licensing committee.*

#### Regulatory and other committees

24. The regulatory and other committees are the "ordinary committees" of the council. In 2012/13 the annual meeting established the following:

- Appointments committee
- Planning committee
- Audit and governance committee
- Corporate parenting committee
- Standards committee (from 1 July 2012 onwards).

25. 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. Officers have reviewed the impact on the proportionality calculations on the ordinary committees for 2012/13.

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



### Appointments to seats

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

### **Consequences of new standards regime and standards committee on proportionality**

29. The Localism Act 2011 (“the Act”) provides for the abolition of the current standards regime including Standards for England, standards committees, the jurisdiction of the First Tier Tribunal over standards of conduct, and a nationally set code of conduct for councillors. Section 27 of the Act places a duty on the council to ensure that its members and co-opted members maintain high standards of conduct and requires such authorities to adopt a code of conduct for their members.
30. Although the Act does not make provision for a ‘standards committee’. Southwark has the power to form a ‘standards committee’ under the Local Government Act 1972. The standards committee has previously indicated that they would wish to recommend to council assembly that Southwark maintain a ‘standards committee’. The committee believed that retaining this committee with the role of maintaining high standards of conduct is the best way of achieving the general duty to “promote and maintain high standards of conduct by members and co-opted members” of the authority.
31. Council assembly may form such a committee and determine its terms of reference. The new roles and functions of the committee are set out in the constitutional report elsewhere on this agenda (see Appendix 4 of the constitutional review report). This committee would be subject to the rules on proportionality as an “ordinary committee”. The ‘new’ standards committee will undertake some of the existing functions other than the conduct regime imposed by the Act.
32. The 1 July 2012 implementation date means that at the annual meeting two standards committees would need to be established. The current standards committee with an independent chair would operate up to 30 June 2012 and from 1 July the new standards committee would take effect with a councillor appointed as chair. The current standards committee is constituted as a separate committee under the Local Government Act 2000, which requires all political groups to be represented on it and under the constitution it must comprise between four and seven councillors. The annual meeting in May 2011 established a standards committee for 2011/12 comprised of six councillors, with seats allocated to political groups as follows:
  - Labour 3 places
  - Liberal Democrat 2 places
  - Conservatives 1 place.

33. The power to appoint members of the committee vests in council assembly and, in previous years, council assembly has appointed members in line with the number of seats allocated to each political group. Not more than one cabinet member may sit on a standards committee.
34. As stated above as an “ordinary committee” the new standards committee would be subject to the rules of proportionality. For the purposes of ordinary committees, this means proportionality is based on the total number of seats on all ordinary committees compared to the overall allocation of seats each political group has on the council. The principles for calculating proportionality require the majority group to hold a majority on each ordinary committee. Officers have considered the effect of this on the overall proportionality of ordinary committees, including the new standards committee. As a result officers would recommend that the committee comprises nine councillors, with the following allocation of places: five Labour, three Liberal Democrat and one Conservative. The increase in the size of the committee is necessary in ensuring that all political groups are represented on the committee. By comparison a smaller committee of seven members would mean only the majority group and the largest opposition group would have seats.

Further information on the new arrangements and options on proportionality is set out in Appendix 3.

#### **Audit and governance committee**

35. 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 seven councillors in 2012/13. This is in line with the size of other committees of the council and will help ensure that the committee will continue to have representatives from all political groups. The seats to be allocated to political groups as follows:

- Labour 4 places
- Liberal Democrat 2 place
- Conservatives 1 place.

36. 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**

37. 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.

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

### Community councils

39. Community councils take decisions about local matters and have some responsibility for decisions in the following key areas: the cleaner, greener, safer capital and revenue programmes, community fund, traffic management and agreeing schemes for the community project bank. Community councils also offer an important mechanism for formal consultation on council wide policies and strategies.
40. Following the decision on the budget by council assembly in February 2012 there will be five community councils areas divided by geographical areas as follows:

**Table 4 - Community councils areas divided by geographical areas**

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

41. The membership of community councils includes those councillors who are members for the electoral wards wholly contained within the area of each community council. Following the decisions of council assembly in February 2012, the community councils will meet five times a year in 2012/13. Community councils meet in local venues around the borough.

### Licensing committee

42. 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 and provide a sufficient pool of members to ensure quorate sub-committees.
43. 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 2011/12,

agreed the following allocation of seats: eight Labour, six Liberal Democrat and one Conservative.

44. The Licensing Act 2003 makes no provision to appoint reserve members.
45. The licensing sub-committees consist of three members and a reserve and are called up on when required and membership is based on the allocation process agreed by the licensing committee in December 2007.

#### **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.

#### **Independent members on standards committee**

48. At least 25% of the standards 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.
49. The following independent members have previously been appointed by council assembly and their existing terms of office are set out below:
  - Peter Bibby - until annual council May 2012 (1<sup>st</sup> term)
  - Wendy Golding - until annual council May 2012 (2<sup>nd</sup> term)
  - Mark Roelofsen - until annual council May 2013 (2<sup>nd</sup> term)
  - Bola Ogun - until annual council May 2013 (2<sup>nd</sup> term).

It is intended that existing independent members will continue to serve on the standards committee after annual council until 30 June 2012. However to allow this it is recommended that the terms of office of two independent members, Peter Bibby and Wendy Golding, whose terms expire in May 2012, be extended to allow them to serve on the standards committee after annual council until 30 June 2012.

50. The chair and vice chair are appointed at the first meeting of the existing committee in June 2012. The chair is elected from the independent members of the committee. From July onwards independent members may be co-opted by the new standards committee for a term of one year as non voting co-opted members.

#### **Reserve members**

51. 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.
52. 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.

53. 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 council panels**

54. Council assembly will consider the establishment and composition of the following council panels (see also Appendix 5):

- **Council assembly business panel** – The panel is chaired by the Mayor and also consists of one representative from each political group. The panel acts as an advisory panel to the Mayor on council assembly matters, including the annual programme and the setting of themes for debate.
- **Constitutional steering panel** – the 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.

In 2011/12 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.

- **Pensions advisory panel** – The panel has a composition of members, officers, independent advisors and a trade union representative. The purpose of the panel is to advise the advice to the finance director when performing functions relating to the council's pension scheme.
- **Voluntary bodies appointment panel** – The panel has a composition of 3 Labour and 2 Liberal Democrat members. 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. In 2011/12 the panel of five members, which was established by council assembly, comprised three Labour and two Liberal Democrat.

### **Council assembly dates**

55. A calendar of council assembly meetings for the 2012/13 municipal year has been prepared and is shown in the recommendations. The proposed dates are based on the meetings held in 2011/12.
56. Council assembly is asked to formally agree these dates, in accordance with the relevant statutory provision.

### **Council calendar**

57. A calendar of council meetings for the 2012/13 municipal year ahead has been prepared and is shown at Appendix 6.
58. The calendar includes the dates for school holidays, party conferences and other committed dates. Due to 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.
59. 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**

60. In 2011, 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 up to three representatives and allocate 5 votes (see Appendix 7). 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**

61. Government guidance states that appointments to outside bodies and joint committees are "local choice" functions. As such, the cabinet 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.
62. 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 2012 council assembly is asked to agree the nominations for the year 2012/13 (see separate report).

### **Urgency committee**

63. 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 (to be circulated separately)
Appendix 2	Regulatory and Other Committees - Appointments 2012/13
Appendix 3	Proportionality – Standards Committee and Ordinary Committees – Summary of decisions and options for committees to be established in 2012/13
Appendix 4	Overview and Scrutiny Committee and Community Council - Appointments 2012/13
Appendix 5	Panels - Appointments 2012/13
Appendix 6	Council Calendar 2012/13
Appendix 7	Appointments to LGA General Assembly

## AUDIT TRAIL

<b>Lead Officer</b>	Deborah Collins, Strategic Director of Communities, Law & Governance	
<b>Report Author</b>	Ian Millichap, Constitutional Manager Lesley John, Constitutional Officer	
<b>Version</b>	Final	
<b>Dated</b>	10 May 2012	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Strategic Director of Communities, Law & Governance	Yes	Yes (included in body of report)
Finance Director	No	No
<b>Cabinet Member</b>	No	No
<b>Date final report sent to Constitutional Team</b>	10 May 2012	



**REGULATORY AND OTHER COMMITTEE APPOINTMENTS 2012-13**

**APPOINTMENTS COMMITTEE**

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

<b>Allocation 2011/12 (No. of Reserves in brackets)</b>	<b>Proposed Allocation 2012/13 (No. of Reserves in brackets)</b>	<b>Appointments to Committees</b>
Labour: 4 (3) Liberal Democrat: 3 (2) Conservative: 0 (0)	No change.	Chair Vice chair

## PLANNING COMMITTEE

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

Allocation 2011/12 (No. of Reserves in brackets)	Proposed Allocation 2012/13 (No. of Reserves in brackets)	Appointments to Committees
Labour: 4 (3) Liberal Democrat: 3 (2) Conservative: 0 (0)	No change.	Chair Vice chair

### AUDIT AND GOVERNANCE COMMITTEE

Summary of Functions	Status	Membership	How often it Meets	Politically Proportionate
<ul style="list-style-type: none"> <li>• To provide independent assurance of the adequacy of the council's governance arrangements.</li> <li>• To provide independent scrutiny of the council's financial and non-financial performance.</li> <li>• To provide an oversight of the financial reporting process.</li> </ul>	Committee	In 2011/12 the membership was five councillors. In 2012/13 it is proposed to increase the membership to seven councillors.	Quarterly	Yes (Statutory)

Allocation 2011/12 (No. of Reserves in brackets)	Proposed Allocation 2012/13 (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 2011/12	Proposed Allocation 2012/13 (No. of Reserves in brackets)	Appointments to Committees
Labour: 4 (3) Liberal Democrat: 3 (2) Conservative: 0 (0)	No change.	Chair: cabinet member for children's services Vice chair

## STANDARDS COMMITTEE

Summary of Functions	Status	Membership 2011/12	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, 4 independent voting members).	Quarterly	Until 30 June 2012: Yes (Local agreement)  From 1 July 2012: Yes (Statutory)

Allocation 2011/12 (No. of Reserves in brackets)	Proposed Allocation 2012/13 (to 30 June 2012) (No. of Reserves in brackets)	Appointments to Committees
Labour: 3 (3) Liberal Democrat: 2 (2) Conservative: 1 (1) Independent (voting) members: 4	No change.	Chair (independent member) and Vice Chair appointed at first meeting.

Allocation 2011/12 (No. of Reserves in brackets)	Proposed Allocation 2012/13 (from 1 July 2012) (No. of Reserves in brackets)	Appointments to Committees
Labour: 3 (3) Liberal Democrat: 2 (2) Conservative: 1 (1) Independent (voting) members: 4	Constituted as an ordinary committee as follows: Labour: 5 (5) Liberal Democrat: 3 (3) Conservative: 1 (1) For more information see main report.	Appointed by annual meeting: Chair Vice Chair

## LICENSING COMMITTEE

Summary of Functions	Status	Membership	How often it Meets	Politically Proportionate
<ul style="list-style-type: none"> <li>• To approve the council's policies in respect of all licensing and registration matters except the licensing and gambling statements of policy.</li> <li>• To consider the designation of new sites for street trading</li> <li>• 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.</li> </ul> <p>Three members plus one 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 2011/12	Proposed Allocation 2012/13	Appointments to Committee
Labour: 8 Liberal Democrat: 6 Conservative: 1	No change.	Chair Vice chair  <b>Note:</b> There are no reserve members on this committee

## APPENDIX 3

### Proportionality – Standards Committee and Ordinary Committees – Summary of decisions and options for committees to be established in 2012/13

#### New arrangements

1. At the annual meeting on 23 May 2012 council assembly would be required to take two decisions on proportionality of ordinary committees for the following periods (see Table A below):

**Table A – Summary of two decisions on proportionality**

Decision	Period	Ordinary committees	Standards committee (Local Govt Act 2000)
1. Post annual meeting – Existing standards regime	24 May to 30 June 2012	<p>Four ordinary committees as follows:</p> <ul style="list-style-type: none"> <li>• Appointments</li> <li>• Planning</li> <li>• Corporate Parenting</li> <li>• Audit and Governance.</li> </ul> <p>Proportionality as set out in recommendation 3 of the main report.</p>	Yes
2. New standards regime	From 1 July 2012	<p>Five ordinary committees as follows:</p> <ul style="list-style-type: none"> <li>• Appointments</li> <li>• Planning</li> <li>• Corporate Parenting</li> <li>• Audit and Governance</li> <li>• Standards.</li> </ul> <p>Proportionality as set out in recommendation 3 of the main report (see alternative options below).</p>	No

### Proportionality - Assuming minimal changes to other committees

2. In order to comply with the principles for calculating proportionality to take effect from 1 July 2012 (Decision 2), assuming minimal changes to other committees number of places, the total number of seats on all ordinary committees should be increased from the current total of 26 (excluding DAC) to 33 places, made up of:

- 26 seats from 2011/12 – Appointments, Planning, Corporate Parenting, Audit and Governance
- 7 seats for new standards committee in 2012/13 from 1 July 2012.

This arrangement set out in Table B below would not provide all political groups with a seat on the standards committee.

**Table B – Assuming minimal changes to other committees**

	Labour	Lib Dem	Con	
Committee 1 (Appointments Committee)	4	3	0	
Committee 2 (Planning Committee)	4	3	0	
Committee 3 (Standards Committee)	4	3	0	
Committee 4 (Audit & Governance Committee)	3	1	1	
Committee 5 (Corporate Parent Committee)	4	3	0	
<b>Total no. of seats</b>	<b>19</b>	<b>13</b>	<b>1</b>	<b>33</b>

### Proportionality - Assuming each political group has a place on the standards committees

3. If council assembly were minded to agree that each political group should be represented on the standards committee it would have to do so by one of three options:

- (i) Agree a disproportionate allocation of places on ordinary committee - No member present would have to vote against;

or,

- (ii) On basis of a total of 33 seats - The Conservative Group are only entitled to one place on ordinary committees. If the Conservative Group took a place on the new Standards Committee they would not have their existing place on Audit and Governance Committee;

or,



- (iii) Increase the total number of seats to 37 and adjust the allocation of places on two ordinary committees as follows:

**Table C – Increasing total number of seats to 37**

	<b>Lab</b>	<b>Lib Dem</b>	<b>Con</b>	
Committee 1 (Appointments Committee)	4	3	0	
Committee 2 (Planning Committee)	4	3	0	
Committee 3 (Standards Committee)	5	3	1	
Committee 4 (Audit Committee)	4	2	1	
Committee 5 (Corporate Parent Committee)	4	3	0	
<b>Total no. of seats</b>	21	14	2	37

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 three 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 receives and comments on reports from scrutiny sub-committees, and reviews overview and scrutiny procedures.</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 – including a chair and vice-chair appointed by council assembly, the chairs of the scrutiny sub-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 2011/12 (No. of Reserves in brackets)	Proposed Allocation 2012/13 (No. of Reserves in brackets)	Appointments to Committee
Labour: 6 (6) Liberal Democrat: 4 (4) Conservative: 1 (1)	No change.	Chair Vice chair

## COMMUNITY COUNCILS

Summary of Functions	Status	Membership	How often it Meets	Politically Proportionate
To take decisions about local matters and to act as a formal mechanism on council-wide policies and strategies providing a forum where the views of all its constituents, partners and stakeholders can be heard.	Committee (Exercises some executive functions)	Relevant ward councillors	Main meetings – 5 per year	No

Allocation 2011/12	Allocation agreed by council assembly in February 2012	Appointments to Committees
<ul style="list-style-type: none"> <li>• Borough and Bankside</li> <li>• Bermondsey</li> <li>• Camberwell</li> <li>• Dulwich</li> <li>• Nunhead and Peckham Rye</li> <li>• Peckham</li> <li>• Rotherhithe</li> <li>• Walworth</li> </ul>	<ul style="list-style-type: none"> <li>• Borough, Bankside and Walworth</li> <li>• Bermondsey and Rotherhithe (retaining the current split of Livesey Ward between Bermondsey &amp; Rotherhithe and Peckham &amp; Nunhead)</li> <li>• Camberwell</li> <li>• Dulwich</li> <li>• Peckham and Nunhead</li> </ul>	Chair Vice chair

**PANEL APPOINTMENTS 2012-13**

**PENSIONS ADVISORY PANEL**

<b>Summary of Functions</b>	<b>Status</b>	<b>Membership</b>	<b>How often it Meets</b>	<b>Politically Proportionate</b>
Establishing and reviewing strategic investments objectives, pension fund management, and monitoring performance of investment managers and pension scheme administration costs.	Panel	3 Councillors (and 3 officers, 2 non-voting independent advisors and 1 non-voting trades unions representative)	Ad hoc	No

<b>Allocation 2011/12</b>	<b>Proposed Allocation 2012/13</b>	<b>Appointments to Committees</b>
Labour: 1 Liberal Democrat: 1 Conservative: 1	No change.	Chair Vice chair

### VOLUNTARY BODIES APPOINTMENTS PANEL

Summary of Functions	Status	Membership	How often it Meets	Politically Proportionate
<ul style="list-style-type: none"> <li>• To make recommendations on appointments to Southwark charities</li> <li>• To maintain a list of prospective school governors for the authority</li> <li>• To make recommendations on local education authority appointments to secondary and special school governing bodies</li> </ul>	Panel	5 Councillors	Ad-hoc	Yes (Local Agreement)

Allocation 2011/12	Proposed Allocation 2012/13	Appointments to Committees
Labour: 3 Liberal Democrat: 2 Conservative: 0	No change.	Chair Vice chair

### CONSTITUTIONAL STEERING PANEL

Summary of Functions	Status	Membership	How often it Meets	Politically Proportionate
<ul style="list-style-type: none"> <li>• To oversee, review and recommend amendments to the constitution.</li> <li>• To make recommendations to council assembly for the award of Honorary Freedom of the Borough and Honorary Aldermen.</li> <li>• To recommend changes to the member allowances scheme.</li> </ul>	Panel	The political group whips of each party represented on the council, and one councillor from the majority group.	Ad-hoc	No

Allocation 2011/12	Proposed Allocation 2012/13	Appointments to Committees
Labour: 2 Liberal Democrat: 1 Conservative: 1	No change.	Chair Vice chair

### COUNCIL ASSEMBLY BUSINESS PANEL

Summary of Functions	Status	Membership	How often it Meets	Politically Proportionate
To advise the Mayor in planning the annual programme of council assembly meetings and themes, to ensure a draft council assembly agenda is available to political groups prior to agenda dispatch, to review debating rules and suggest amendments.	Panel	The Mayor and the political group whips of each party represented on the council.	Twice per year	No

Allocation 2011/12	Proposed Allocation 2012/13	Appointments to Committees
Mayor of Southwark Labour: 1 Liberal Democrat: 1 Conservative: 1	No change.	Chair: Mayor

APPENDIX 6

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
			DRAFT COUNCIL CALENDAR 2012/13						
May-12	Mon 21	Group Meetings		1900					
	Tue 22								
	Wed 23	Council Assembly (Annual Meeting) Overview & Scrutiny Committee	* - Note: To be held at rise of annual meeting to establish sub-committees and appoint chairs and vice-chairs	1900 2000*					
		Planning Committee	* - Note: To be held at rise of annual meeting to establish any sub-committees and appoint chairs and vice-chairs	2000*					
	Thur 24								
	Fri 25								
	Sat 26								
	Sun 27								
	Mon 28								
	Tues 29								
	Wed 30			1900					
	Thur 31								
Jun-12	Fri 1	Licensing Sub-Committee							
	Sat 2		QUEEN'S DIAMOND JUBILEE CELEBRATIONS						
	Sun 3								
	Mon 4		BANK HOLIDAY						
	Tue 5		BANK HOLIDAY						
	Wed 6	Planning Committee							
	Thur 7								
	Fri 8								
	Sat 9								
	Sun 10								
	Mon 11	Licensing Sub-Committee		1000					
	Tue 12	Group Meetings (if required) Planning Sub-Committee A Standards Committee							
	Wed 13	Licensing Committee							
	Thur 14								
	Fri 15								
	Sat 16								
	Sun 17								
	Mon 18	Licensing Sub-Committee Constitutional Steering Panel Overview & Scrutiny Committee		1000 1830 1900					



DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Tue	19	Cabinet		1600					
Wed	20	Community Council 1 Community Council 2		1900 1900					
Thur	21								
Fri	22								
Sat	23								
Sun	24								
Mon	25	Licensing Sub-Committee Group Meetings		1000					
Tue	26	Community Council 3 Community Council 4		1900 1900					
Wed	27								
Thur	28								
Fri	29								
Sat	30								
Jul-12	Sun 1								
Mon	2	Audit & Governance Committee Community Council 5		1900 1900					
Tue	3	Planning Committee		1900					
Wed	4	Council Assembly		1900					
Thur	5								
Fri	6								
Sat	7								
Sun	8								
Mon	9	Scrutiny Sub-Committee Scrutiny Sub-Committee		1900 1900					
Tue	10	Scrutiny Sub-Committee Planning Sub-Committee B		1900 1900					
Wed	11	Community Councils chair's and vice chair's		1900					
Thur	12								
Fri	13								

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Sat	14								
Sun	15								
Mon	16	Overview and Scrutiny Committee		1900					
Tue	17	Cabinet Planning Committee		1600 1900					
Wed	18	Corporate Parenting Committee Planning Sub-Committee A		1900					
Thur	19								
Fri	20		SCHOOL HOLIDAYS						
Sat	21								
Sun	22								
Mon	23								
Tue	24								
Wed	25								
Thur	26								
Fri	27		OLYMPIC GAMES						
Sat	28								
Sun	29								
Mon	30								
Tue	31								
Aug 12	Wed								
Thur	2								
Fri	3								
Sat	4								
Sun	5								
Mon	6								
Tue	7								
Wed	8								
Thur	9								
Fri	10								
Sat	11								
Sun	12								
Mon	13								
Tue	14								
Wed	15								
Thur	16								
Fri	17								
Sat	18								
Sun	19								
Mon	20								
Tue	21								
Wed	22								
Thur	23								

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Fri	24								
Sat	25								
Sun	26								
Mon	27								
Tue	28		PARALYMPIC GAMES						
Wed	29								
Thur	30								
Fri	31								
Sep-12	Sat 1								
Sun	2								
Mon	3								
Tue	4	Planning Committee		1900					
Wed	5								
Thur	6								
Fri	7								
Sat	8								
Sun	9								
Mon	10	Group Meetings							
Tue	11	Planning Sub-Committee B Scrutiny Sub-Committee		1900 1900					
Wed	12	Scrutiny Sub-Committee		1900					
Thur	13								
Fri	14								
Sat	15								
Sun	16								
Mon	17	Overview & Scrutiny Committee		1900					
Tue	18	Dulwich Community Council Scrutiny Sub-Committee		1900 1900					
Wed	19	Constitutional Steering Panel Licensing Committee		1830 1900					
Thur	20								
Fri	21								
Sat	22		Liberal Democrat Party Conference						
Sun	23								
Mon	24	Community Council - Camberwell Community Council - Peckham and Nunhead		1900 1900					

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Tue	25	Cabinet		1600					
Wed	26	Audit and Governance Committee		1900					
Thur	27								
Fri	28								
Sat	29								
Sun	30								
Oct-12	Mon 1		Labour Party Conference						
Tue	2	Planning Sub-Committee A		1900					
Wed	3								
Thur	4								
Fri	5								
Sat	6								
Sun	7								
Mon	8	Group Meetings	Conservative Party Conference						
Tue	9	Planning Committee		1900					
Wed	10	Community Council - Walworth & B&B Community Council - Bermondsey & Rotherhithe		1900 1900					
Thur	11			1900 1900					
Fri	12								
Sat	13								
Sun	14								
Mon	15	Overview & Scrutiny Committee		1900					
Tue	16								
Wed	17	Council Assembly							
Thur	18								
Fri	19								
Sat	20								
Sun	21								
Mon	22								
Tue	23	Cabinet		1600					
Wed	24	Planning Sub-Committee B		1900					
Thur	25								
Fri	26								
Sat	27								
Sun	28								
Mon	29								

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Tue	30		HALF TERM						
Wed	31								
Nov-12	Thur 1								
	Fri 2								
	Sat 3								
	Sun 4								
	Mon 5	Corporate Parenting Committee		1900					
	Tue 6	Planning Committee		1900					
	Wed 7	Standards Committee		1900					
	Thur 8								
	Fri 9								
	Sat 10								
	Sun 11								
	Mon 12	Overview & Scrutiny Committee		1900					
	Tue 13	Audit and Governance Committee		1900					
		Licensing Committee		1900					
	Wed 14	Planning Sub-Committee A		1900					
		Community Council 1		1900					
	Thur 15								
	Fri 16								
	Sat 17								
	Sun 18								
	Mon 19	Group Meetings		1900					
	Tue 20	Cabinet		1600					
	Wed 21	Community Council 2		1900					
		Community Council 3		1900					
	Thur 22								
	Fri 23								
	Sat 24								
	Sun 25								
	Mon 26	Scrutiny Sub-Committee		1900					
		Scrutiny Sub-Committee		1900					
	Tue 27	Community Council 3		1900					
		Community Council 4		1900					
	Wed 28	Council Assembly		1900					
	Thur 29								
	Fri 30								
Dec-12	Sat 1								
	Sun 2								
	Mon 3	Overview & Scrutiny Committee		1900					

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Tue	4	Planning Committee		1900					
Wed	5	Scrutiny Sub-Committee Scrutiny Sub-Committee		1900					
Thur	6								
Fri	7								
Sat	8								
Sun	9								
Mon	10	Licensing Sub-Committee Community Council 5		1000 1900					
Tue	11	Cabinet Planning Sub-Committee B		1600 1900					
Wed	12	Community Councils chair's and vice chair's							
Thur	13								
Fri	14								
Sat	15								
Sun	16								
Mon	17								
Tue	18	Planning Committee		1900					
Wed	19			1900					
Thur	20								
Fri	21								
Sat	22		SCHOOL HOLIDAYS						
Sun	23								
Mon	24								
Tue	25		CHRISTMAS DAY HOLIDAY						
Wed	26		BOXING DAY HOLIDAY	1000					
Thur	27								
Fri	28								
Sat	29								
Sun	30								
Mon	31								
Jan-13	Tue								
	Tue								
Wed	2								
Thur	3								
Fri	4								
Sat	5								
Sun	6								
Mon	7	Overview and Scrutiny Committee		1900					
Tue	8	Audit and Governance Committee		1900					
Wed	9								
Thur	10								
Fri	11								
Sat	12								
Sun	13								
Mon	14	Liberal Democrat Group Labour Group Conservative Group							
Tue	15	Planning Committee		1900					

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Wed	16	Scrutiny Sub-Committee Scrutiny Sub-Committee							
Thur	17								
Fri	18								
Sat	19								
Sun	20								
Mon	21								
Tue	22	Planning Sub-Committee A		1600					
Wed	23	Council Assembly		1900					
Thur	24								
Fri	25								
Sat	26								
Sun	27								
Mon	28	Scrutiny Sub-Committee Community Council 1		1900					
Tue	29	Cabinet		1600					
Wed	30	Community Council 2 Community Council 3		1900					
Thur	31			1900					
Feb-13	1								
Fri	2								
Sat	3								
Sun	4								
Mon	5	Overview & Scrutiny Committee		1900					
Tue	6	Planning Committee		1900					
Wed	7	Community Councils chair's and vice chair's							
Thur	8								
Fri	9								
Sat	10								
Sun	11	Group Meetings							
Mon	12		ALTERNATE DATE (see 18/02/2013)						
Tue	13	Cabinet Planning Sub-Committee B		1600 1900					
Wed	14	Community Council 4 Community Council 5		1900 1900					
Thur	15								

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Fri	15								
Sat	16								
Sun	17								
Mon	18	Liberal Democrat Group Labour Group Conservative Group	<b>HALF TERM</b>	1900					
Tue	19			1900					
Wed	20			1900					
Thur	21								
Fri	22								
Sat	23								
Sun	24								
Mon	25	Audit & Governance Committee		1900					
Tue	26	Corporate Parenting Committee		1900					
Wed	27	Council Assembly (Budget Setting)		1900					
Thur	28								
Mar-13	Fri 1								
	Sat 2								
	Sun 3								
	Mon 4	Standards Committee Scrutiny Sub-Committee		1900 1900					
	Tue 5	Planning Committee Constitutional Steering Panel		1900 1830					
	Wed 6	Scrutiny Sub-Committee Scrutiny Sub-Committee		1900 1900					
	Thur 7								
	Fri 8								
	Sat 9								
	Sun 10								
	Mon 11	Overview & Scrutiny Committee Planning Sub-Committee A		1900 1900					
	Tue 12	Scrutiny Sub-Committee Scrutiny Sub-Committee		1900 1900					
	Wed 13	Licensing Committee		1900					
	Thur 14								
	Fri 15								
	Sat 16								
	Sun 17								
	Mon 18	Liberal Democrat Group Labour Group Conservative Group							
	Tue 19	Cabinet		1600					



DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
	Wed	20							
	Thur	21							
	Fri	22							
	Sat	23							
	Sun	24							
	Mon	25	Scrutiny Sub-Committee						
	Tue	26	Planning Committee	1900					
	Wed	27	Council Assembly (Ordinary Meeting)	1900					
	Thur	28							
	Fri	29							
	Sat	30							
	Sun	31							
	Apr-13	Mon							
	Tue	2							
	Wed	3							
	Thur	4							
	Fri	5							
	Sat	6							
	Sun	7							
	Mon	8							
	Tue	9	Planning Sub-Committee B						
	Wed	10							
	Thur	11							
	Fri	12							
	Sat	13							
	Sun	14							
	Mon	15	Overview & Scrutiny Committee	1900					
	Tue	16	Cabinet Group Meetings	1600					
	Wed	17	Community Council 1 Community Council 2	1900 1900					
	Thur	18							
	Fri	19							
	Sat	20							
	Sun	21							
	Mon	22	Community Council 3 Community Council 4	1900 1900					

DAY	DATE	DETAILS OF MEETING	OTHER EVENTS	TIME	VENUE	INVITE ONLY	CONTACT	EMAIL	PHONE
Tue	23	Planning Sub-Committee A Scrutiny Sub-Committee		1900 1900					
Wed	24	Standards Committee							
Thur	25								
Fri	26								
Sat	27								
Sun	28								
Mon	29	Corporate Parenting Committee		1900					
Tue	30	Audit and Governance Committee Community Council 5		1900 1900					
May-13	Wed 1	Scrutiny Sub-Committee Scrutiny Sub-Committee		1900 1900					
Thur	2								
Fri	3								
Sat	4								
Sun	5								
Mon	6		<b>BANK HOLIDAY</b>						
Tue	7	Planning Committee Overview & Scrutiny Committee		1900 1900					
Wed	8								
Thur	9								
Fri	10								
Sat	11								
Sun	12								
Mon	13	Liberal Democrat Group Labour Group Conservative Group							
Tue	14	Cabinet		1600					
Wed	15	Planning Sub-Committee B							
Thur	16								
Fri	17								
Sat	18								
Sun	19								
Mon	20	Group Meetings							
Tue	21								
Wed	22	Council Assembly (Annual Meeting)		1900					
Thur	23								
Fri	24								
Sat	25								
Sun	26								
Mon	27								
Tue	28								
Wed	29								
Thur	30								
Fri	31		<b>HALF TERM/BANK HOLIDAY</b>						



## APPENDIX 7

### 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
<b>LGA General Assembly</b>	To provide an opportunity for discussion of motions calling on the Association to take action on major strategic policy issues.	Council representative	Once a year	26 June 2012 (annual meeting)  27 & 28 June 2012 (annual conference)	Up to three representatives with an allocation of 5 votes.  [2011-12: Two representatives - Councillors Peter John (3 votes), Anood Al-Samerai (2 votes)].	The Local Government Association advises that votes can be allocated amongst the representatives as the local authority sees fit.  The Local Government Association encourages local authorities 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.

<b>Item No.</b> 3.3	<b>Classification:</b> Open	<b>Date:</b> 23 May 2012	<b>Meeting Name:</b> Council Assembly
<b>Report title:</b>		Nominations to London Councils Committees, Greater London Employment Forum and nomination of lead borough members 2012/13	
<b>Ward(s) or groups affected:</b>		None	
<b>From:</b>		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 borough lead members/relevant portfolio holders for the areas listed in paragraph 8 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 2012, council assembly is being asked to agree the nominations for 2012/13 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.

### **Greater London Employment Forum**

7. The London Councils discontinued forums in 2011 with the exception of the Greater London Employment Forum. The Forum acts as the regional employer for London for those staff employed under the National Joint Council for Local Government Services. The representative is usually the lead cabinet member for human resources issues.

### **Borough lead members**

8. The London Councils Executives who lead on particular policy areas need to consult and liaise with relevant borough lead members on matters of major importance and are seeking to identify borough lead member / relevant portfolio holders (by way of nominations) for the following areas:
  - Children and Young People
  - Crime and Public Protection
  - Culture, Tourism and London 2012
  - Economic Development
  - Health and Adult Services
  - Housing

### **London Councils Limited**

9. 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.
10. All formal London Councils committee and forum meetings are held during the day on weekdays.

### **Legal implications**

11. There are no specific legal implications.

### **Consultation**

12. The group whips were provided with a copy of the London Councils circular relating to the nominations on 24 April 2012.

### **Community impact statement**

13. 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 Greater London Employment Forum – Committee and Forum remit and places to be filled

## AUDIT TRAIL

<b>Lead Officer</b>	Ian Millichap, Constitutional Manager		
<b>Report Author</b>	Everton Roberts, Constitutional Officer		
<b>Version</b>	Final		
<b>Dated</b>	9 May 2012		
<b>Key Decision?</b>	No		
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES</b>			
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>	
Strategic Director of Communities, Law & Governance	No	No	
Finance Director	No	No	
<b>Cabinet Member</b>	No	No	
<b>Date final report sent to Constitutional Team</b>	9 May 2012		

## APPENDIX 1

### NOMINATIONS TO LONDON COUNCILS COMMITTEES AND GREATER LONDON EMPLOYMENT FORUM - COMMITTEE AND FORUM REMIT AND PLACES TO BE FILLED

Name	Remit	Member Status	No. of Places to be filled	Notes
<b>London Councils Leaders' Committee</b> (S101 Joint Committee)	The London Councils main decision-making forum. It sets policy and takes decisions on the latest developments affecting London local government.	Council Representative	1 representative and up to 2 deputies	Representative usually Leader of the Council, but another cabinet member can be nominated.  Representative and deputies must be members of the cabinet.
<b>London Councils Transport and Environment Committee</b> (Associated S101 Joint Committee)	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.	Council Representative	1 representative and up to 4 deputies	Representative usually lead cabinet member for transport and / or environmental issues.  Representative and deputies must be members of the cabinet.



Name	Remit	Member Status	No. of Places to be filled	Notes
<p><b>London Councils Grants Committee</b> (Associated Joint Committee)</p>	<p>London Councils invests in voluntary organisations on behalf of all the London boroughs. The funding is provided by the London Boroughs Grant Scheme. The operation of the scheme is managed by the grants committee which comprises representatives from the 32 London Boroughs and the Corporation of London.</p> <p>During 2011/12 London Councils invested £12m on behalf of London councils offering grants to deliver 106 commissioned services across London.</p>	<p>Council Representative</p>	<p>1 representative and up to 4 deputies</p>	<p>Representative preferably lead cabinet member with responsibility for partnerships and the voluntary sector.</p> <p>Representative and deputies must be members of the cabinet.</p>
<p><b>Greater London Employment Forum</b></p>	<p>The Employers' side of the Greater London Employment Forum (GLEF) acts as the regional employer for London for those staff employed under the National Joint Council for Local Government Services, for all the boroughs which choose to be party to it. The full GLEF is made up of employers and trade union representatives.</p>	<p>Council Representative</p>	<p>1 representative and 1 deputy</p>	<p>Representative usually lead cabinet member for human resources issues.</p>

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

<b>Item No.</b> 3.4	<b>Classification:</b> Open	<b>Date:</b> 23 May 2012	<b>Meeting Name:</b> Council Assembly (Annual Meeting)
<b>Report title:</b>		Constitutional Review 2012/13	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Strategic Director of Communities, Law & Governance	

## RECOMMENDATIONS

That the following constitutional changes be adopted by council assembly, as recommended by the constitutional steering panel:

### AUDIT AND GOVERNANCE COMMITTEE

#### Part 3L – Terms of reference

1. That the changes to the terms of reference of the audit and governance committee as described in paragraph 28 of this report be agreed.

#### Part 4 – Rules – Composition of the committee

2. That committee procedure rule 6.1 on the composition of the audit and governance committee be deleted (see paragraph 31) and it be noted that size of the committee is to be increased to seven as part of the recommendation to the annual meeting on the establishment of committees and proportionality.

### COMMUNITY COUNCILS

3. That following the decisions of council assembly on 29 February 2012 relating to changes to community councils, the following constitutional changes are recommended for approval:
  - That the Article 8 be updated as set out in paragraph 28 to reflect the change in community council boundaries and names.
  - That the changes to planning function/thresholds and establishment of new structure of strategic planning committee and two sub-committees as set out in paragraphs 40-43 of this report be agreed.
  - That the addition of a cleaner greener safer revenue fund as set out in paragraph 46 of this report be agreed.
  - That school governor appointments be delegated to the relevant chief officer (see paragraph 47).

## **STANDARDS COMMITTEE**

4. That the following recommended constitutional changes to the standards committee as set out in Appendix 4 be agreed:
- Change to roles and functions / matters reserved of the standards committee
  - Part 4 – Rules – Change to procedure rules of the standards committee
  - Changes to scope of questions and deputations in the procedure rules for all meetings.

The changes in Appendix 4 will take effect from 1 July 2012, with the exception of the changes to clauses 6 and 14 of the matters reserved which take immediate effect.

## **PART 3N: URGENCY COMMITTEE**

5. That paragraph 55 be noted.

## **PART 4: COMMITTEE PROCEDURE RULES CONCERNING LICENSING AND PLANNING COMMITTEE**

6. That a new rule on the use of social media in relation to members sitting on the planning and licensing committees/sub-committees, as described in paragraph 65 of this report, be agreed.

## **PART 4: COUNCIL ASSEMBLY PROCEDURE RULES**

7. That changes to the procedure rules on the themed debate as described in paragraph 73 of this report be agreed.
8. That the changes to members' questions on reports as described in paragraph 75 of this report be agreed.
9. That the changes to public question time as described in paragraph 76 of this report be agreed.
10. That the changes to members' question time, questions on behalf of community councils, as described in paragraph 79 of this report be agreed.
11. That a new clause be added to allow for changes to the date and venue of a meeting in exceptional circumstances, as described in paragraph 81 of this report.
12. That the changes to length of speeches in relation to the annual budget report, as described in paragraph 82 of this report, be agreed.
13. That the changes to the order of business in relation to deputations relating to the themed debate, as set out in paragraph 84 of this report, be agreed.

**PART 4: RULES – OVERVIEW AND SCRUTINY COMMITTEE**

14. That the constitutional changes to the overview and scrutiny procedure rules as set out in paragraph 86 be agreed in order to reflect a decrease in the number of scrutiny sub-committees from five to three and an amendment to the terms of reference of overview & scrutiny committee.

**PART 4: CONTRACT STANDING ORDERS**

15. That the substantive changes to contract standing orders as described in paragraph 88 and as set out in full in Appendix 6 of this report be agreed.

**PART 4: FINANCIAL STANDING ORDERS**

16. That the substantive changes to financial standing orders as described in paragraph 91 and as set out in full in Appendix 7 of this report be agreed.

**PART 5: CODE OF CONDUCT**

17. That council assembly notes the proposed new code of conduct following the Localism Act 2011, considered by the standards committee on Tuesday 24 April 2011 (see Appendix 5). The code will need to be amended once regulations on the “Disclosable Pecuniary Interests” are published and therefore the code will be brought to the July council assembly for adoption.

**PART 6: MEMBER AND OFFICER PROTOCOL**

18. That the changes to the member and officer protocol as described in paragraphs 104-107 of this report and the comments of the standards committee be agreed (see Appendix 8).

**PART 6: COMMUNICATION PROTOCOL**

19. That the changes to the communication protocol as described in paragraphs 108-112 of this report be agreed (see also Appendix 9).

**PART 6: MEMBERS ALLOWANCES SCHEME**

20. That the panel considers the separate report on the member allowances scheme.

**CONSEQUENTIAL CHANGES**

21. 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.

**BACKGROUND INFORMATION**

22. This report covers constitutional areas and a number of other statutory changes that had come to officers’ attention that form the annual review of the constitution.

23. 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.
24. 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 were considered by the constitutional steering panel at its meetings on 23 April and 9 May 2012.

## KEY ISSUES FOR CONSIDERATION

### Introduction

25. 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. The constitutional steering panel also considered proposals submitted from the political groups.
26. 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 ~~strike through~~).

### Community impact statement

27. There will be no direct impact on local people from adoption of these changes to the council's constitution. The constitution will enable people, including the local community where relevant, 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.

## AUDIT AND GOVERNANCE COMMITTEE

### Part 3L – Terms of Reference

28. The audit and governance committee has received reports on retrospective contract related decisions since 2008 and although this has been formalised within contract standing orders and the committee's work plan, it has not been picked up within the committee's role and functions section in part 3L. It is proposed to make this role explicit within the 'Regulatory framework' section of its role and functions through the inclusion of the following clause:

19. To receive reports on retrospective contract related decisions as set out in contract standing orders.

#### **Part 4 – Rules – Composition of the committee**

29. Committee procedure rule 6.1 states that the audit and governance committee will comprises at least three councillors and up to five councillors, including at least one member of each political group. As an ordinary committee of the council, it needs to take account of the rules concerning political balance. The size of an audit committee is not prescribed, but whereas HM Treasury guidance recommends between three and five members, guidance issued by CIPFA notes only that if the number of members is too small, it may be difficult to achieve political balance, and if too large, meetings may become unwieldy.
30. Since it was first constituted the committee has comprised of five councillors, however in view of proposed changes to other ordinary committees for 2012/13 and to provide a slightly larger pool of members on the audit and governance committee it is recommended that the membership is increased to seven councillors. This is in line with other committees of the council and will help ensure that the committee will continue to have representatives from all political groups. Irrespective of the size of the committee, it is important that it remains independent of executive and scrutiny functions and those members receive training as required to enable them to fulfil their role.
31. In order to ensure this change in the size of the committee is reflected in committee procedure rules, it is recommended that committee procedure rule 6.1 on the number of councillors serving on the committee is deleted and subsequent clauses renumbered as set out below:

#### **6. ADDITIONAL RULES APPLYING TO AUDIT AND GOVERNANCE COMMITTEE**

##### **Composition**

- ~~1. The committee will consist of at least three councillors, and up to five councillors, including at least one member of each political group as defined by the Local Government and Housing Act 1989 and Regulation 8 of Local Government (Committees and Political Groups) Regulations 1990.~~
  2. No more than one member of the cabinet or deputy may be a member of the committee, and no cabinet member may chair the committee.
  3. No more than one member of the overview and scrutiny committee may be a member of the committee, and no overview and scrutiny committee member may chair the committee.
  4. The leader of the council may not be a member of the committee.
32. The reasons for this change are two fold. First, this will also avoid duplication with the report establishing ordinary committees which regularly appears on the annual meeting agenda. Second, it will simplify the wording of the constitution. The only other committee with a similar rule is the standards committee and from 1 July 2012 this is also likely to change as the annual meeting considers how the committee is constituted in the future.

33. For information it should be noted that in a few years time as a result of the abolition of the Audit Commission and changes in external audit arrangements, there will be a need to have a more in-depth review of the composition, role and functions of the audit and governance committee. Grant Thornton is set to become the council's external auditor from September 2012 for a period of five years and officers are currently awaiting greater clarity as to arrangements which will need to be put in place thereafter in order to ensure that the council is able to fulfil its responsibility to appoint an external auditor. These arrangements are expected to require the establishment of an independent audit committee though it is not yet clear how this might look or what its remit might be.

## COMMUNITY COUNCILS

### ARTICLE 8 – COMMUNITY COUNCILS

34. The council has agreed that there should be five community councils, meeting five times a year. Article 8 of the constitution needs to be amended by inserting the new table below to reflect this change; full changes are set out in Appendix 1. The recommended names of the community council areas are set out in the table below:

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

### PART 3 – PLANNING

35. Council assembly has agreed that delegated authority in relation to planning applications is no longer exercised by community councils and to introduce a sub-committee model (comprising of 1 strategic planning committee and 2 sub-committees with fixed memberships) with revised thresholds. The commission were keen that an alternative be established that whilst contributing to the savings required, retained a level of member lead decision making.
36. Some constitutional changes are necessary to allow the commissions' preferred option of two sub-committees to be implemented, thus achieving the required level of savings. The two sub-committee model saves £92,238. It was also reported to council assembly that the thresholds for planning decisions would need to be reviewed to achieve these savings. The proposed thresholds set out below are likely to see around 100 applications at sub-committee meetings but



will reduce the need for minor applications to be considered by a committee. This is outlined in paragraphs 46-49.

37. The model proposed allows member level decisions whilst streamlining the decision making process. The commission considered the level of applications considered by community councils which were outside of the application deadline (between June 2010 and May 2011 approximately 76% of applications were considered after the application expiry date) which could be challenged on the basis of non-determination and the difficulties for local councillors in representing local interests whilst taking part in the decision making process.

## **Size and membership of planning sub-committees**

### **Proportionality**

38. Sub-committees are not “ordinary committees” and therefore are considered individually for the purposes of proportionality. So far as it is reasonably practicable to do so, the allocation of seats on each sub-committee should bear the same proportion to the number of the seats held by that group on the council. The most proportionate allocation will depend on the number of members of the sub-committee. The following general principles apply when determining proportionality on sub-committees:
- (i) That not all the seats on a sub-committee are allocated to the same political group;
  - (ii) That the majority group must have the majority of seats on each sub-committee;
  - (iii) Subject to (i) to (ii) above, the proportion of each political group’s seats on each sub-committee reflects as closely as possible their proportion of seats on full council.
39. If the sub-committees have 7 members this would be consistent with the size of the main planning committee. Sub-committees are required to be proportional. Based on the general principles above, seats would be allocated to political groups on the following basis: Labour: 4 seats, Liberal Democrats 3 seats and Conservatives 0 seats. A proportionate allocation of seats is set out in the table below:

	<b>Labour</b>	<b>Liberal Democrats</b>	<b>Conservative</b>	<b>Total</b>
<b>Main Committee</b>	4	3	0	<b>7</b>
<b>Sub-Committee A</b>	4	3	0	<b>7</b>
<b>Sub-Committee B</b>	4	3	0	<b>7</b>

40. Council assembly would agree the overall arrangements for planning sub-committees as part of any necessary changes to the constitution. The planning sub-committees will be established by the planning committee. This is reflected in the recommended revised Part 3F at Appendix 2 (new clause 4). Members of the planning committee can agree planning sub-committee memberships that

are disproportionate, provided no committee member votes against this. Sub-committees are not ordinary committees of the council so allocating seats to minority political groups would not affect the overall proportionality calculation of other committees.

#### **Appointments to seats**

41. It will be the business of the planning committee to establish the sub-committees at its first meeting of the municipal year.
42. There is nothing to prevent an individual councillor sitting on both the strategic planning committee and a planning sub-committee or on more than one planning sub-committee.

#### **Reserve members**

43. In accordance with the committee procedure rules, the planning sub-committees would have a number of places allocated for reserve members. Political groups are entitled to reserve members on each sub-committee equivalent to one fewer reserve than the number of seats they have on the sub-committee (subject to a minimum of one).

#### **Frequency of meetings**

44. It is recommended that the planning sub-committees each meet on 6 week cycle (excluding the August break).

#### **Planning committee – Roles and functions / matters reserved for decision**

45. The community councils have taken planning decisions where the development proposed involves the creation of fewer than 50 housing units or less than 3500m<sup>2</sup> or commercial floor space or a mixed use development with less than 3500m<sup>2</sup> of floor space.
46. It was reported that the main committee/two sub-committee model would not be workable without a change in level of thresholds. In 2009 50 applications were considered by Planning Committee and 117 applications considered by community councils. In 2010 52 applications were considered by Planning Committee and 141 applications considered by community councils. In 2011 53 applications were considered by Planning Committee and 119 applications considered by community councils. This demonstrates that without a change in level of delegation a three committee structure would not be able to cope with the same level of applications, particularly as there appears to be no reasonable prospect of the number of applications for planning permission reducing.
47. As outlined in paragraph 36 it is necessary to adjust the thresholds so that the volume of member decisions can be accommodated in a two sub-committee, 6 week cycle. If revised thresholds are not introduced, the £92,238 savings which are required to be delivered in order to meet the budget savings agreed by council assembly on 29 February 2011 will not be achieved.
48. Officers have reviewed the thresholds and are recommending a revised Part 3F for planning committees as attached at Appendices 1 and 2 which is considered workable with one strategic planning committee (meeting on a 4-week cycle) and two planning sub-committees (meeting on 6-week cycles). Broadly this involves

retaining the current threshold for the strategic planning committee, i.e. of 50 or more housing units or more than 3,500m<sup>2</sup> of commercial floor space or a mixed use development with more than 3,500m<sup>2</sup> of floor space, and establishing a threshold of 10 - 49 housing units or 1,000 - 3,500m<sup>2</sup> of commercial floor space or a mixed use development with 1,000 - 3,500m<sup>2</sup> of floor space for a planning sub-committee. The level of objections required for an application to be considered at a committee of councillors has also had to be reviewed to achieve a manageable workload – it is recommended that this is raised to five. All other applications below these thresholds would be delegated to officers unless one of the specific exceptions set out in the revised Part 3F applied.

49. The review of thresholds has also looked at a revised referral mechanism to ensure the overall workload for the planning committee and planning sub-committees is manageable. It is suggested that the trigger for members to request an application is considered by the planning committee or one of the planning sub-committees is altered so that two councillors may request an application is considered by elected members, rather than a single ward member. Following discussion by the constitutional steering panel the recommendation is for the request to be considered by the chair of planning committee in consultation with the appropriate chief officer. The mechanism is set out in Appendix 2 and will determine if an application should be heard by the planning committee or a sub-committee. This change will also ensure a consistent approach to the type of applications considered by the respective committees.
50. It was noted that Southwark has one of lowest levels of decisions taken under delegated authority. The following kind of applications that currently go to community councils would be delegated to officers: single household changes/extensions, double glazing, extractor fans, ventilation systems, and advertising hoardings.
51. The commission recommended a strong consultative role for community councils to enable local people to influence local planning issues. This consultative role is already included in Part 3H of the constitution. Appendix 3 outlines some of the consultative/non-decisions making functions which it would be appropriate for community councils to retain including: commenting on the release of s106 funding over £100,000, consultation on supplementary planning documents and consideration of quarterly planning enforcement reports. The commission noted the role of community councils in developing planning policy e.g. some community councils have been successfully involved in the development of area actions plan such as the Canada Water Area Action Plan and Aylesbury Area Action Plan.

### **PART 3H: COMMUNITY COUNCILS**

52. Appendix 3 sets out revisions to the role and functions of community councils to ensure the required savings agreed by council assembly on 29 February 2012 can be achieved as reflected in the recommendations of the Democracy Commission. This involves the deletion of delegated functions in relation to local planning applications and appointment of local education authority governors to local nursery and primary schools. The commission also recommended clarifying the delegated powers in relation to the community council fund. The commission noted the creation of a cleaner greener safer revenue fund which was agreed by council assembly as part of the 2012/13 budget process. This decision making function has been delegated to community councils by the leader of the council.

This delegation is included in revised Part 3H as a new provision to provide greater transparency.

53. Council assembly in February 2012 agreed that the school governor function will no longer be exercised by community councils as this generates savings of £10,895 and the commission noted that the decisions on school governors are taken in closed session which is inconsistent with the engagement roles of community councils. It is recommended that this function is transferred to the appropriate chief officer – it is important to note the saving will not be achieved if this function is transferred to another committee or panel of the council.

### **PART 3M: STANDARDS COMMITTEE**

54. The changes to the standards regime were considered by the standards committee on Tuesday 24 April 2012. The background information on the changes is set out in this section of the report. The standards committee considered the issues affecting the standards committee and standards regime and asked for the information on the changes to the standards committee from 1 July 2012 to be included in the report to the annual meeting of the council assembly. Constitutional steering panel on 9 May 2012 considered the proposed changes to the constitution required by the new standards regime and the role of the new committee and recommended changes to the following areas of the constitution:

- Change to roles and functions/matters reserved of the standards committee
- Part 4 – Rules – Change to procedure rules of the standards committee
- Changes to scope of questions and deputations in the procedure rules for all meetings.

The proposed changes are set out in full in Appendix 4. These changes will take effect from 1 July 2012, except for the changes to clauses 6 and 14, which take immediate effect as they relate to legislative changes in the Localism Act 2011, relating to dispensations and exemptions of posts from political restrictions.

55. The Localism Act 2011 (“the Act”) provides for the abolition of the current standards regime including Standards for England, standards committees, the jurisdiction of the First Tier Tribunal over standards of conduct, and a nationally set code of conduct for councillors. Section 27 of the Act places a duty on the council to ensure that its members and co-opted members maintain high standards of conduct and requires such authorities to adopt a code of conduct for their members.
56. Although the Act does not make provision for a ‘standards committee’. Southwark has the power to form a ‘standards committee’ under the Local Government Act 1972. The standards committee has previously indicated that they would wish to recommend to council assembly that Southwark maintain a ‘standards committee’.
57. Council assembly may form such a committee and determine its terms of reference. This committee would be subject to the rules on proportionality. Standards committee have already indicated that retaining this committee with

the role of maintaining high standards of conduct is the best way of achieving the general duty to “promote and maintain high standards of conduct by members and co-opted members” of the authority.

58. The ‘new’ standards committee could undertake functions other than the conduct regime imposed by the Act.
59. The 1 July 2012 implementation date means that at the annual meeting two standards committees would need to be established. The current standards committee with an independent chair would operate up to 30 June 2012 and from 1 July the new standards committee would take effect with a councillor appointed as chair. The current standards committee is constituted as a separate committee under the Local Government Act 2000, which requires all political groups to be represented on it and under our current constitution must comprise between four and seven councillors.
60. As stated above, as an “ordinary committee” the new standards committee would be subject to the rules of proportionality. For the purposes of ordinary committees, this means proportionality is based on the total number of seats on all ordinary committees compared to the overall allocation of seats each political group has on the council. The principles for calculating proportionality require the majority group to hold a majority on each ordinary committee. Officers have considered the effect of this on the overall proportionality of ordinary committees, including the new standards committee. As a result officers would recommend that the committee comprises nine councillors, with the following allocation of places: five Labour, three Liberal Democrats and one Conservative. The increase in the size of the committee is necessary in ensuring that all political groups are represented on the committee. By comparison a smaller committee of seven members would mean only the majority group and the larger opposition group would have seats.

### **PART 3N: URGENCY COMMITTEE**

61. 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 will be 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.

### **PART 4: COMMITTEE PROCEDURE RULES CONCERNING LICENSING AND PLANNING COMMITTEE**

62. “Social media” is a collective term used to describe ways to create and publish on the internet. People generally use the term to describe how individuals and organisations share content – text, video and pictures – and create conversations on-line. Social media is changing the way that councillors and councils interact with the people they serve. Examples of social networking sites are Facebook, Twitter and MySpace.
63. The use of social media is increasingly becoming an important and legitimate part of the operation of a democratic society. It is an efficient, cost-effective and

enjoyable way for members to get in touch with constituents and discuss important issues with the community they represent.

64. Standards for England issued guidance to promote the positive role of social networking, which provided guidance on how the code of conduct for members would apply to social networking and gave some examples of tribunal cases that have dealt with the issues.
65. This guidance dealt with some governance issues around social media:
 

“Bias and Predetermination

If you are involved in determining planning or licensing applications, you should avoid publishing anything on your blog that might suggest you have already made up your mind about a matter you may be involved in determining. Otherwise, the decision runs the risk of being invalidated.”
66. Southwark changed the procedure rules of council assembly to allow the audio recording of proceedings, which the Democracy Commission recommended in order to enhance the possibility of citizen journalism involving social media, but did not mention use of social media by councillors during council assembly, cabinet or committee meetings.
67. Concerns have been raised about members who use social media when taking part during meetings. This is particularly worrying in planning and licensing meeting when it is done by members who are the decision makers.
68. Apart from the possibility of the use of social media leading to a decision being challenged in the court because of bias and predetermination in the way suggested by the Standards for England guidance, a decision may be challenged by way of judicial review if a decision maker took into account an irrelevant consideration, such a tweet from a third party. By using social media during the meeting a member would see information which other members have not seen or could be influenced by what is being said by third parties.
69. Using social media could also distract the member from the issue under discussion and therefore stop a member fully understanding the issues in a decision, stopping the member taking into account relevant considerations. Use of the internet to look up information about a decision could lead to a similar challenge. The communication protocol does not mention social networking.
70. The standards committee considered the issue at their meeting of 29 June 2011 and asked officers to revise the committee procedure rules to prevent members from using social media when considering licensing and planning decisions, while continuing to support its use generally as an important tool for engaging the public. On 23 April 2012 the panel considered whether to include a clause about the use of social media in the closed sections of meetings but having taken officer advice concluded that provisions on confidentiality were dealt with elsewhere in the constitution.
71. It is recommended that the following be added as a new rule 8 to the committee procedure rules as follows:

## **8. ADDITIONAL RULES APPLYING TO PLANNING COMMITTEE AND LICENSING COMMITTEE OR SUB-COMMITTEES**

1. At any meeting of the planning committee or licensing committee if the committee is determining any application for an approval, consent, licence, permit or permission members should not access the internet, send or receive emails, texts, messages or tweets concerning the business of the committee when present as a voting member
2. At any meeting of the planning sub-committee or licensing sub-committee if the sub-committee is determining any application for an approval, consent, licence, permit or permission members should not access the internet, send or receive emails, texts, messages or tweets concerning the business of the sub-committee when present as a voting member.
3. For the purposes of this rule “meeting” includes any adjournments so in relation to the purpose of the meeting members should not access the internet, send or receive emails, texts, messages or tweets during any adjournment concerning the business of the committee.

## **PART 4: COUNCIL ASSEMBLY PROCEDURE RULES**

### **Themed debate**

72. The constitutional review provides an opportunity to review the rules on the themed debate based on the experience of the themed debates at council assembly since 6 April 2011 to date.
73. The themed section of the meeting commences with the relevant cabinet member introducing the theme. The cabinet member is allocated ten minutes in which to do this. Over the course of the year the meeting has for the last few meetings agreed to allow the shadow cabinet member to speak for five minutes, however this is not provided for in the procedure rules. Therefore council assembly may wish to include this entitlement in to the themed section of the meeting as set out below. In the final bullet point, the words “(maximum 30 minutes)” are recommended for deletion. This deletion clarifies how themed debates operate in practice since in rule 2.7(4) it states “the Mayor shall have the discretion to vary timings as appropriate”. The wording is therefore unnecessary.

A recommended constitutional change is set out below:

### **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
  - Shadow cabinet member has 5 minutes in which to reply
  - Public pre-submitted questions on the theme of the meeting (maximum of 15 minutes)

- Member's motions on the cabinet theme using present principles to allow sufficient political balance and for political groups to hold cabinet to account (~~maximum 30 minutes~~).

#### **Council assembly procedure rule 2.11 (4) - Notice required for questions on reports**

74. The current deadline for members' questions on reports is one clear working day before the meeting. There have been occasions when a large number of questions have been received and this has caused a number of unforeseen consequences. These include:
- reducing the number of members who can make a contribution during the debate
  - in some cases it duplicates the provision that already exists for members' questions time
  - requiring considerable additional officer resources, which are limited, to provide background information for written responses and compile the responses document for the meeting.
75. Therefore it is recommended that the deadline for members' questions on reports in CAPR 2.11(4) as set out below, could be extended to three clear working days before the meeting:

#### **Notice required for questions on reports**

4. Notice of all questions on reports shall be given in writing, signed by the member and delivered at least ~~one~~ three clear working day before the day of the meeting at which the motion is to be moved, at the office of the monitoring officer (i.e. by midnight of the Monday in the week of an ordinary Wednesday council assembly meeting). If a meeting is scheduled to commence before 7.00pm or is to be held at the weekend this deadline shall be delivered at least two clear working days before the day of the meeting. Each member is limited to one question per item of business.

#### **Public question time**

76. Currently there is no provision in public question time for a cabinet member or chair to refer a question to another cabinet member or chair if it is more appropriate for them to answer, in the same way there is for members' question time. Therefore it is suggested that a new clause 8 be included in CAPR 2.5 (6) on public question time. This change is for clarification.

A recommended constitutional change is set out below:

#### **Deadlines**

6. An application for a question to be considered shall be submitted in writing to the monitoring officer no later than three clear working days in advance of the council assembly.
7. The date and time of receipt of such requests will be recorded and a copy of the question will immediately be sent to the member to whom it is to be put. Rejected questions will include reasons for rejection.



8. Questions shall be addressed to the relevant cabinet member or committee chair who shall be responsible for the content of the answer. Cabinet members and committee chairs shall have discretion to refer a question to another cabinet member or committee chair if this is appropriate.

### **Members' question time – Questions on behalf of community councils**

77. Questions on behalf of community councils was an idea of the Democracy Commission, which was introduced last year as a way of giving community councils an opportunity to raise issues on the council assembly agenda. Currently there is no process for deciding how or who decides what question is submitted to council assembly. CSP last year left this matter to chairs and vice-chairs of community councils and individual community councils to consider, however no definitive position was taken. Normally community council questions are submitted by the chair of the relevant community council, but on occasions another member of the community council has submitted a question in advance. On three occasions a member other than the chair has submitted a question. The constitution currently requires questions (other than questions to the leader) are listed in order of receipt. The panel considered clarifying the current situation to assist members and officers.
78. It is therefore recommended that any question submitted from a community council to council assembly should first be the subject of discussion at a community council meeting. The subject matter and question should be clearly noted in the community council's minutes and thereafter the agreed question can be referred to the constitutional team.
79. If the above proposal is agreed CAPR 2.9(2)(who can ask questions) will need to be amended along the lines outlined below. A new procedure rule would also need to be added to the community council procedure rules as a consequential change.

A recommended constitutional change is set out below:

#### **Who can ask questions?**

2. A member of the council may ask one question of:
- the Mayor
  - a member of the cabinet
  - the chair of any committee or sub-committee or community council.
  - ~~One councillor from each community council will be able to submit a question on behalf of their community council.~~
  - each community council may submit one question that has previously been considered and noted by the said community council.

### **Postponement / Cancellation of meetings**

80. The community council procedure rules and committee procedure rules currently allow in exceptional circumstances changes to the date or venue of a meeting, however council assembly rules do not. Therefore it would seem prudent to include a similar provision in the council assembly procedure rule as last year it was necessary to abandon a council assembly meeting by obtaining cross party

agreement not to attend, thereby making the meeting inquorate. There could prove to be other circumstances when it might make it impossible for the meeting to be held as convened, for example a heavy snow fall makes it impossible for people to attend or heating system breakdown.

81. It is therefore recommended that the following be added to council assembly procedure rule 1.1:

New clause 1.1(5)

**Postponement / Cancellation of meetings**

The Mayor / Chair, in consultation with the monitoring officer, may in exceptional circumstances cancel a meeting, direct that an ordinary meeting of council assembly / committee be not called or change the date, time or venue of a meeting.

**Rules of debate – Content and length of speeches**

82. Currently CAPRs allow the mover of a motion or report to speak for five minutes and any other speeches are limited to three minutes. However, during their presentation of the annual budget report the relevant cabinet member will often require longer than the allocated five minutes in which to address the issues raised within the report, therefore it is recommended that CAPR 1.14(9) be amended as outlined below in order to allow the relevant cabinet member longer to present the annual budget report. It is also recommended that the relevant shadow cabinet member have an opportunity to reply for five minutes. This would also bring the presentation time in line with the themed section of a meeting when the presenting cabinet member has ten minutes in which to speak on the theme.

The recommended changes to the rule would read as follows:

**Content and length of speeches**

9. Speeches must be restricted to the matter under discussion or to a personal explanation or point of order. No speech by the mover of a motion may exceed five minutes without the consent of the Mayor. All other speeches may not exceed three minutes without the consent of the Mayor, except in the case of the relevant cabinet member when presenting the annual budget report at the council tax setting meeting. In this case, they will be allowed up to ten minutes in which to present the report and the shadow cabinet member shall have five minutes in which to reply.

**Order of business at ordinary council meetings**

83. This section of the report proposes making a more formal link on the order of business between the themed debates and those deputations relating to the theme, so these deputations are considered immediately prior to the debate. Any other deputations would be considered after the themed debate.
84. In the past year the number of deputations received by council assembly at ordinary meetings has shown a significant increase compared to previous years, with a particular focus on deputations relating to the themed debate.

The recommended changes to rules 2.2 h) and l) would read as set out below:

## **2.2 ORDER OF BUSINESS AT ORDINARY COUNCIL MEETINGS**

### **Introduction and preliminary business**

- a) elect a person to preside if the Mayor is not present and the Deputy Mayor is not chosen to preside
- b) receive any announcements from the Mayor, members of the cabinet or the chief executive, including matters which the Mayor has decided to add to the agenda as urgent. Wherever possible, cabinet member statements should be in writing and circulated at the start of the meeting
- c) receive any declarations of interest from members
- d) approve the minutes of the last meeting
- e) announcement of the guillotine

### **Time for residents to bring issues to assembly**

- f) receive petitions
- g) receive questions from, and provide answers to, the public in relation to matters, which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- h) deputations on the themed debate

### **Themed debates**

- i) 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
- j) public pre-submitted questions on the theme of the meeting
- k) members' motions on the theme

### **Other deputations**

*Note: New l) and renumber subsequent sections*

- l) other deputations (that do not relate to the themed debate)

### **Time for members to bring issues to assembly**

- m) urgent questions by group leaders
- n) questions from councillors to the leader, other cabinet members and chairs of committees/community councils
- o) consider motions.

## **PART 4: RULES – OVERVIEW AND SCRUTINY COMMITTEE**

- 85. At its budget setting meeting on 29 February 2012 council assembly agreed that savings should be made to the scrutiny function. Therefore, on 12 March 2012 the overview and scrutiny committee agreed that in 2012/13 the number of scrutiny sub-committees be reduced from five to three thereby resulting in a saving of £65,000 in the coming financial year. The committee also agreed to include the overview of regeneration within the terms of reference of overview and scrutiny committee.
- 86. The recommended changes to the overview and scrutiny procedure rules arising from these decisions are set out below:

## 1. Arrangements for overview and scrutiny

1.1 The council will appoint an overview and scrutiny committee. The overview and scrutiny committee will appoint ~~five~~ three scrutiny sub-committees and determine their terms of reference.

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

2.2 The overview and scrutiny committee will ~~consist of~~ include:

- a) a chair, appointed by council assembly
- b) a vice-chair, appointed by council assembly
- c) the chairs of the ~~five~~ three scrutiny sub-committees, provided that the proportionality rules are not compromised and provided that each political group is permitted to nominate non-cabinet members should this be necessary to maintain proportionality
- d) education representatives as set out at paragraph 4.

## 6. Terms of reference of the overview and scrutiny committee

6.1 The terms of reference of the overview and scrutiny committee will be:

- a) to appoint ~~five~~ three scrutiny sub-committees, including a sub-committee with responsibility for crime and disorder, agreeing the size, composition and terms of reference and to appoint chairs and vice-chairs
- k) to scrutinise matters in respect of:
  - the council's policy and budget framework
  - regeneration
  - human resources and the council's role as an employer and corporate practice generally
  - customer access issues, including e-government, information technology and communications
  - the council's equalities and diversity programmes.

## PART 4: CONTRACT STANDING ORDERS

### General advice on changes to contract standing orders

87. 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

88. Proposed substantive changes are set out below and are included in Appendix 6:

- New CSO 2.1h) Compliance with relevant statutory and corporate requirements – a new sub section is proposed to include a reference to the council's commitment to the London Living Wage, as confirmed by council assembly on 29 February 2012
- CSO 2.2 Consequences of non-compliance – this amendment would strengthen arrangements on reporting serious breaches of contract standing orders or of Procurement Guidelines
- CSO 4.4, 4.5 and 4.6 Decisions on procurement strategy, contract award and to allow variations – it is proposed to include references to 'insurance' within these sections. This would bring insurance decisions within those areas of activity for which the finance director has responsibility for decisions. It needs to be read in conjunction with a proposed amendment to financial standing orders as set out below
- New CSO 4.5.2g) Pension arrangements – a new section is proposed to address the need to have regard to the Admitted Bodies Policy, by making the finance director responsible for contract award decisions where the proposed contract includes pension arrangements terms which are different from those set out in that policy.

### Other minor changes

89. A number of other minor changes are summarised below for information and are included in Appendix 6:

- CSO 2.1g) Compliance with relevant statutory and corporate requirements – updated terminology to make reference to the council's plan
- CSO 2.5 Record keeping – the requirement to record contracts on departmental and central contract registers is made explicit
- CSO 4.4.2, 4.5.2 and 4.6.2 Decisions on procurement strategy, contract award and to allow variations – it is proposed that references to CCRBs and DCRBs be amended to better reflect arrangements in place. The role of these boards is to provide quality assurance, with formal advice being provided through the concurrences provided by statutory officers and heads of relevant professional services
- CSO 4.5 Decision on contract award – changes are proposed to 4.5.3 and 4.5.4 in relation to delegated decisions to bring into line with the current strong leader arrangements
- CSO 4.6 Decision to allow Variations during contract term - this clarifies the requirement to take a decision after consideration of the report by relevant departmental contract review boards where a contract affects the budget of more than one directorate, in line with current procedures
- CSO 5 Requirements to obtain tenders or quotes depending on type of contract and levels of contract value – the need to refer to the Definitions section when estimating the value of a contract is made explicit

- Definitions – updated definitions of contract register to differentiate departmental and central registers and an amendment to definition of estimated contract value for greater clarity.

#### **PART 4: FINANCIAL STANDING ORDERS**

##### **General advice on changes to financial standing orders**

90. 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**

91. The proposed substantive changes are summarised below and included in Appendix 7:
- New FSO 1h) Insurance – A new section is proposed to bring operational insurance decisions into the remit of the finance director, in line with his section 151 responsibility for the proper administration of the council's financial affairs. This is consistent with his responsibility for treasury management and pension scheme decisions and recognises the specialist nature of this area of activity, for example in relation to levels of cover and premiums. In line with this, a change to contract standing orders is also proposed, as set out above.
  - New FSO 4d) Support for council tax – A new section is proposed to recognise the requirement on councils to introduce and maintain a local scheme for council tax support from 2013/14 onwards, as set out in the Local Government Finance Bill published in December 2011. This scheme will replace the current council tax benefit arrangements and it is expected that it will need to be in place by 31 January 2013.

##### **Other minor changes**

92. A minor change is summarised below for information and included in Appendix 7:
- FSO 2a) Planning process – updated references to key council documents to reflect the current position.

#### **PART 5: CODE OF CONDUCT**

93. As previously reported to the standards committee, the Localism Act 2011 (“the Act”) provides for the abolition of the current standards regime including Standards for England, standards committees, the jurisdiction of the First Tier Tribunal over standards of conduct, and a nationally set code of conduct for councillors.

94. Section 27 of the Act places a duty on the council to ensure that its members and co-opted members maintain high standards of conduct and requires such authorities to adopt a code of conduct for their members.
95. Section 28 of the Localism Act 2011 requires the council to adopt a code whose contents must be consistent with the seven 'Nolan' principles of standards in public life (selflessness, integrity, objectivity, accountability, openness, honesty and leadership), and must set out the rules that the authority wants to put in place with regard to requiring members to register and disclose pecuniary and non-pecuniary interests.
96. The authority will need to decide what code of conduct to adopt from 1 July 2012, when the new regime starts. The council has discretion as to what it includes within its new code of conduct, provided that it is consistent with the seven principles. The draft Code, attached as Appendix 5, is based on a version produced by the Local Government Association [LGA] and approved by Association of Council Secretaries and Solicitors [ACSeS] which has been shared with the LGA, and may yet be subject to change. This replaces the early ACSeS 'model code' which the standards committee have previously expressed a preference for adopting rather than trying to create a Southwark specific model.
97. This Code is based upon the "Nolan Principles – the seven principles of public life" and includes a number of the provisions from the current code.
98. Regulations will also be made under the Act to require the registration and disclosure of "Disclosable Pecuniary Interests" (DPIs). These will interact with the Code, but as the draft regulations have not been produced at the time of writing it is not clear precisely how.
99. Members may be interested to know that the Department for Communities & Local Government [DCLG] has published an "illustrative text" setting out what a council's code of conduct might look like under the incoming standards regime. Officers have considered this and consider there a number of deficiencies in this "illustrative text". Officers consider the LGA version to be a better vehicle to ensure the council's duty to promote and maintain high standards of conduct of members.
100. The standards committee on 24 April 2012 considered the proposed new code and made no comments. The proposed new code of conduct (see Appendix 5) was noted by the panel on 9 May 2012, as this will be a constitutional change. However, the code will need to be amended once the regulations on DPIs appear, so it cannot be agreed at the annual council. Instead it will be brought to the July council assembly.

## **PART 6: MEMBER AND OFFICER PROTOCOL AND COMMUNICATION PROTOCOL**

101. Council assembly is invited to consider changes to the member and officer protocol (attached at Appendix 8) and the attached communication protocol at Appendix 9. The standards committee on Tuesday 24 April 2012 reviewed both documents and considered if it wished to make any comments. The comments of the committee are reported to this panel meeting.

102. The member and officer protocol and communication protocol were originally introduced in May 2004.
103. The standards committee have a role of advising the council on the revision of these protocols. The protocols will be further considered by the constitutional steering panel and considered by council assembly at constitutional council in May.

#### **Member and officer protocol**

104. The member and officer protocol is to be amended to reflect changes in the democratic services role and consequential amendments on room booking from the move to Tooley Street, the commissioning of Queens Road and the decommissioning of the town hall
105. Paragraphs 39 to 41 detail the arrangements for the use of council owned facilities, including interim arrangements for use of Cator Street until the new Queens Road facilities are available. The changes reflect priority to official council and committee business.
106. Further changes in paragraph 69 are a result of the closure of Standards for England. However with the changes in standards, members may wish to consider whether in certain cases referral to the standards committee could be appropriate in resolving disputes and promoting high standards of conduct. Other changes have been made to reflect current corporate advice on report writing.

The committee heard an introduction on the member and officer protocol and suggested the following amendments:

- Paragraph 17: Final line to read “Attacking an officer’s conduct in public can constitute bullying, as can undue pressure brought by either officers or members in private.”
  - Paragraph 20: First line to read “Officers should not leave confidential or sensitive information visible...”
  - Paragraph 44: Second line to read: “...the term ‘IT’ means computers and any systems used to create, store, print or exchange information electronically.”
107. The changes of the standards committee, together with the other changes are set out in a marked up copy of the proposed protocol attached as a Appendix 8.

#### **Communication protocol**

108. Members will recall that in 2011 a revised code of recommended practice on local authority publicity (“the Code”) came into force and the council reviewed the communication protocol to reflect the code. Use of the protocol has revealed that further revisions are required particularly concerning publicity during periods of heightened sensitivity, e.g. during elections.



109. The amendments in paragraphs 24 to 30 better reflect the code in this area. Members should also remember the monitoring officer produces specific guidance on elections which include publicity guidelines.
110. The addition of paragraph 23 concerning use of social media in certain meeting reflects concerns expressed by the committee in June 2011.
111. As with the member officer protocol and the changes in standards, members may wish to consider whether to include referral to the standards committee in certain cases, which could be appropriate in resolving disputes concerning the application of the communication protocol.
112. Having received an introduction on the communication protocol, the standards committee had no comments and noted the draft. A marked up copy of the proposed communication protocol is attached as Appendix 9.
113. 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.

#### **PART 6: MEMBERS' ALLOWANCES SCHEME**

114. A separate report on consequential changes to the scheme as a result of proposals for planning sub-committee and standards committee is to be found elsewhere on this agenda..

#### **CONSEQUENTIAL CHANGES**

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

#### **OTHER IMPLICATIONS**

##### **Legal implications**

116. This comment advises council assembly of the legal procedure relating to changes to the council's constitution.
117. 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.
118. 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.

119. 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

120. The budget for 2012/13 was set on 29 February 2012 and any changes to the constitution must be contained within the budget.
121. 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	Southwark Council, 160 Tooley Street, London SE1 5LZ	Lesley John 020 7525 7228

### APPENDICES

Appendix No.	Title
Appendix 1	Proposed changes to Article 8 – Community Councils
Appendix 2	Proposed changes to Part 3F – Planning Committee and Planning Sub committees
Appendix 3	Proposed changes to Part 3H – Community Councils
Appendix 4	Standards Committee – Constitutional changes to Part 3M and Procedure Rules
Appendix 5	Draft Code of Conduct
Appendix 6	Contract Standing Orders 2012/13
Appendix 7	Financial Standing Orders 2012/13
Appendix 8	Member and Officer Protocol
Appendix 9	Communication Protocol
Appendix 10	Constitutional changes from political groups considered by constitutional steering panel on 9 May 2012

**AUDIT TRAIL**

<b>Lead Officer</b>	Deborah Collins, Strategic Director of Communities, Law & Governance	
<b>Report Authors</b>	Ian Millichap, Constitutional Manager Alexa Coates, Principal Constitutional Officer Lesley John, Constitutional Officer	
<b>Version</b>	Final	
<b>Dated</b>	11 May 2012	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law & Governance	Yes	Included in body of report
Legal Governance Team	Yes	Included in body of report
Finance Director	Yes	Included in body of report
Head of Financial Governance	Yes	Included in body of report
Planning Department	Yes	Included in body of report
<b>Cabinet Member</b>	No	No
<b>Date final report sent to Constitutional Team</b>	11 May 2012	

## Article 8 – Community councils

### 8.1 Composition

#### Composition of community councils

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

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

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

- voting members on Peckham and Nunhead community council
- voting members on Bermondsey and Rotherhithe community council

### 8.2 Cabinet members on community councils

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

### 8.3 **Key tasks of chairs of community councils**

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

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## PART 3F: PLANNING COMMITTEE AND PLANNING SUB-COMMITTEES

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### Role and functions

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

### Matters reserved for decision by the Planning Committee

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

- (i) where in the opinion of the appropriate chief officer the objection can be overcome by the imposition of an appropriate condition, or
  - (ii) where the application clearly complies with the relevant planning policies, in which case the decision may be taken by officers, or
  - (iii) where ~~they are~~ the application is a straight forward refusals.
- c) those requested by ~~a ward member~~ two councillors to be determined by elected members, subject to the request being agreed by the chair of the planning committee in consultation with the appropriate chief officer
- d) ~~all applications for the council's own developments~~ which are controversial, i.e. subject to 5 or more relevant objections (a "relevant objection" is defined as any objection except an objection which clearly does not raise any material planning considerations) ~~except for the approval of reserved matters to which no relevant objection has been made~~
- e) those involving legal agreements, other than those in accordance with policy requirements, e.g. affordable housing, highway improvements, environmental work and other works required as part of a development proposal
- ~~2. To consider the expenditure of funds over £100,000 secured through legal agreements under section 106 of the Town and Country Planning Act 1990, or any previous legislation.~~
3. The designation of conservation areas including the adoption of conservation area character appraisals and detailed design guidance, and authorisations under article 4 of the Town and Country Planning Permitted Development Order 1995.
4. To consider and determine all planning applications of strategic importance in the borough, including:
- a) applications which require referral to the Mayor of London
  - b) applications which are required to be notified to the Secretary of State as departures from the development plan document (including the unitary development plan)
  - c) applications where the submission of an environmental impact assessment is required by regulation or following a screening application
  - d) applications for the development of metropolitan open land
  - e) applications for the development of contaminated land
  - f) specific applications not covered by the above but determined as strategic by the appropriate chief officer ~~strategic director of regeneration and neighbourhoods.~~
- ~~5. To consider and determine all planning applications where the development will have a material impact on the area of one or more neighbouring community councils. The strategic director of regeneration and neighbourhoods to determine, in consultation with the chairs of the relevant community councils, when such boundary proximity is a material factor.~~

6. ~~To consider any application reserved to community councils in the event that the relevant community council meeting was inquorate or the personal interests or decided views of a large number of members would be likely to render the meeting inquorate.~~
7. To comment on 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.
9. To report to the cabinet on matters relating to the implementation of planning policy.
10. To comment on national and regional consultation documents proposing significant changes to strategic planning policies (e.g. London Plan, Cross River Tram) and make recommendations on the council's response to the cabinet, as appropriate.
11. To consider planning enforcement cases where the appropriate chief officer<sup>1</sup> decides that the matter is of a strategic or controversial nature and should be referred to the committee to consider and determine the taking of enforcement steps.

#### **Matters reserved for decision by a planning sub-committee**

12. Consideration of the following categories of planning applications (including listed building consent, conservation area consent and advertising consent), where the development proposed involves the creation of 10-49 housing units or 1,000m<sup>2</sup> - 3,500m<sup>2</sup> of commercial floor space or a mixed use development with more than 1,000m<sup>2</sup> - 3,500m<sup>2</sup> of floor space, including applications for change of use, or the application is clearly linked to another application which is to be considered by the planning committee:
  - a) those which are significantly contrary to the provisions of the local development framework approved by the council for the purpose of development control, and which are recommended for approval
  - b) those which are controversial, i.e. subject to 5 or more relevant objections (a "relevant objection" is defined as any objection except an objection which clearly does not raise any material planning considerations) except:
    - (i) where in the opinion of the appropriate chief officer the objection can be overcome by the imposition of an appropriate condition, or
    - (ii) where the application clearly complies with the relevant planning policies, in which case the decision may be taken by officers, or

<sup>1</sup> The appropriate chief officer has a broad discretion to refer enforcement matters to the committee. In practice, the sort of enforcement cases likely to be considered appropriate for member decision would be in particular:

- where officers propose not to take enforcement action on a controversial issue
- on matters of strategic importance
- on matters which, though minor individually, have a considerable cumulative effect
- where a decision could set a precedent establishing or varying priorities for enforcement action.

Operational or routine enforcement issues will not be referred to the committee.



- (iii) where the application is a straight forward refusal
  - c) those requested by two councillors to be determined by elected members, subject to the request being agreed by the chair of the planning committee in consultation with the appropriate chief officer
  - d) applications for the council's own developments which are controversial, i.e. subject to 5 or more relevant objections (a "relevant objection" is defined as any objection except an objection which clearly does not raise any material planning considerations)
  - e) those involving legal agreements, other than those in accordance with policy requirements, e.g. affordable housing, highway improvements, environmental work and other works required as part of a development proposal.
13. To consider applications for the development of metropolitan open land.
  14. To consider the expenditure of funds over £100,000 secured through legal agreements under section 106 of the Town and Country Planning Act 1990, or any previous legislation.
  15. To consider the confirmation of tree preservation orders:
    - Those which are the subject of a sustained objection (a "sustained objection" is defined as an objection that is maintained despite an attempt by officer to resolve it, or which officer consider incapable of resolution by negotiation).

### Notes

- a) All matters not reserved as above are delegated to the appropriate chief officer, head of service or business unit manager.
- b) Each chief officer and/or head of service in making decisions under the above scheme is required to do so within the internal scheme of management for their own department. This will include appropriate monitoring arrangements, and dissemination of information both internally and externally to the council.

## PART 3H: COMMUNITY COUNCILS

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### Role and functions

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

### MATTERS RESERVED FOR DECISION

#### Planning functions (non-executive function)<sup>1</sup>

##### Decision making

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

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<sup>1</sup> The powers of the community council in respect of planning functions are formally delegated to it by the planning committee. For the purposes of decision making it is constituted as a sub-committee of the main committee. The planning committee will consider and determine all planning applications on or near community council boundaries, which will have a material impact on the area of one or more neighbouring community councils. The strategic director of regeneration and neighbourhoods will determine when boundary proximity is a material factor.

<sup>2</sup> To be determined by the strategic director of regeneration and neighbourhoods.

- d) ~~All applications for the council's own developments except for the approval of:~~
- ~~• reserved matters and minor developments to which no relevant objections have been made~~
  - ~~• developments that are proposed by community councils.~~
- e) ~~Those involving legal agreements, other than those in accordance with policy requirements, e.g. affordable housing, highway improvements, environmental work and other works required as part of a development proposal.~~

2. ~~To consider the confirmation of tree preservation orders:~~

- ~~• Those which are the subject of a sustained objection (a "sustained objection" is defined as an objection that is maintained despite an attempt by officers to resolve it, or which officers consider incapable of resolution by negotiation).~~

Consultative/non decision making

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

**Environmental management (executive function)**

Decision making

8. Recommendations to the appropriate chief officer ~~strategic director of environment and housing~~, on local contract variations.<sup>3</sup>
9. Recommendations to the cabinet on issues concerning major changes to contracts.

<sup>3</sup> ~~Decisions regarding contract variation shall remain the responsibility of the strategic director (environment and housing).~~

10. Appointment of ward members to serve on warden schemes steering groups.

Consultative/non decision making

11. To consider regular reports on environmental management issues, including street cleaning, refuse collection, abandoned vehicles and leisure centres.
12. To participate in contract reviews and be able to suggest service improvements and identify local priority issues.

**Cleaner, greener, safer capital and revenue programmes (executive function)**

Decision making

13. Approval of the allocation of funds to cleaner, greener, safer capital and revenue schemes of a local nature, using the resources and criteria identified by the cabinet, for example:

- designing out dumping and fly-tipping
- local playground improvements
- local parks
- improvement to local sports facilities
- improvement to local community centres and youth facilities
- eyesores and facelifts
- improving ward-level communication routes and pathways
- bins, street furniture etc.

In the event that a programme variation decision is required before the next scheduled meeting of a community council the appropriate chief officer shall be authorised to determine this, in consultation with the relevant chair of the community council. Variation decisions shall include: any allocation or re-allocation of funds or variation in projects (this list is not exhaustive).

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

Consultative/non decision making

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

**Community council fund**

17. Approval of the allocation of funds to community council fund projects using the resources and criteria identified by cabinet.

In the event that a fund variation decision is required before the next scheduled meeting of a community council the appropriate chief officer shall be authorised to determine this, in consultation with the relevant chair of the community

council. Variation decisions shall include: any allocation or re-allocation of funds or variation in projects (this list is not exhaustive).

### **Traffic management functions (executive function)<sup>4</sup>**

#### Decision making

18. Determination of the following local non-strategic matters:
  - the introduction of single traffic signs
  - the introduction of short lengths of waiting and loading restrictions
  - the introduction of road markings
  - the introduction of disabled parking bays
  - the setting of consultation boundaries for consultation on traffic schemes.
19. Determination of objections to traffic management orders that do not relate to strategic or borough wide issues.
20. To hear and determine traffic petitions and deputations that are of a non strategic nature.

#### Consultation/non-decision making

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

### **Education functions (executive function)**

#### Decision making

- ~~24. Appointment of local education authority school governorships to the governing bodies of nursery and primary schools within the area of the community council, from among the list of suitable persons maintained by the council, except in the circumstances set out in paragraph 24 below.~~
- ~~25. Where a school is eligible for intervention the strategic director of children's services or nominated officer (as set out in the departmental scheme of~~

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<sup>4</sup> In respect of traffic matters that have a potential impact on more than one community council, the appropriate chief officer ~~strategic director of environment and leisure~~ shall determine if boundary proximity is a material issue.

~~management) shall have the power to appoint local authority governors to the governing body, subject to consultation with the relevant cabinet member and the chair or vice chair of the relevant community council consistent with the statutory time constraints placed on the strategic director as well as the widest possible engagement with other councillors, especially the ward councillors for the ward in which the school is located.~~

### **Community project bank (executive function)**

#### Decision making

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

#### **Notes**

- a) All matters not reserved as above are delegated to the appropriate chief officer and head of service. All delegated matters can always be decided by the parent body. See also Part 3P: Matters delegated to officers.
- ~~b) All planning matters not reserved as above are delegated to the appropriate chief officer, head of service or business unit manager~~
- c) Each chief officer and/or head of service in making decisions under the above scheme is required to do so within the internal scheme of management for their own department. This will include appropriate monitoring arrangements, and dissemination of information both internally and externally to the council.

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**PART 3M: STANDARDS COMMITTEE**


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**Role and functions**

1. To promote and maintain high standards of conduct by councillors, co-opted members and church and parent governor representatives.
2. To assist councillors, co-opted members and church and parent governor representatives to observe the members' code of conduct.
3. To advise the council on the adoption or revision of the members' code of conduct, the member and officer protocol and the communication protocol.
4. To monitor the operation of the members' code of conduct, the member and officer protocol and the communication protocol.
5. To advise, train or arrange to train councillors, co-opted members and church and parent governor representatives on matters relating to the members' code of conduct.
- ~~6. To grant dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the members' code of conduct. [See note on dispensations below]~~
7. To deal with any complaints referred to it, ~~reports from a case tribunal or interim case tribunal~~ and any report from the monitoring officer on any matter which is referred to him or her.
- ~~8. To consider advice and reports from Standards for England and to report to Standards for England on the operation of the committee and its sub-committees.~~
9. To receive reports from the monitoring officer on unlawful expenditure and probity issues.
10. To receive reports from the statutory officers under the council's whistle blowing policy.
- ~~11. To consider appointments to outside bodies (where such appointments are not a function of the cabinet).~~
12. To grant civic awards.
13. To establish sub-committees to consider complaints of misconduct against elected councillors, and co-opted ~~and independent~~ members.
- ~~14. To consider the granting, hearing appeals and supervision of exemptions of posts from political restrictions. [See note on exemptions below]~~

15. To provide strategic oversight on the use of the powers regulated by the Regulation of Investigatory Powers Act 2000 and to receive reports on operational use at least once a quarter.
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.

### **Matters reserved for decision**

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

**Note on dispensations:** In respect of clause 6 on dispensations above which is recommended for deletion, this change is required because the Localism Act says: "A relevant authority may, on a written request made to the proper officer of the authority by a member or co-opted member of the authority, grant a dispensation relieving the member or co-opted member from either or both of the restrictions in section 31(4) in cases described in the dispensation."

In line with this statute requirement the duty will be added to the proper officer list. Under article 1.5, changes to the constitution, this list is maintained and published by the monitoring officer.

**Note on the exemption of posts from political restrictions:** In respect of clause 14 above which is recommended for deletion, this role is reallocated in the Localism Act to be the head of paid service.

### **COMMITTEE PROCEDURE RULES – STANDARDS COMMITTEE**

The constitutional changes are indicated below:

#### **1.2 QUORUM**

*This rule cannot be suspended.*

1. No business shall be considered unless 25% of the voting membership are present in the meeting room but no fewer than two, except for the following meetings for which the quorum is:
  - a) Licensing sub-committees = three<sup>1</sup>
  - b) Standards committee or sub-committees = three ~~including one independent member~~<sup>2</sup>.

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<sup>1</sup> The procedures governing the proceedings of the licensing sub-committees are set by the licensing committee. The licensing committee agreed on 17 May 2005 that the quorum of sub-committees shall be three members.

<sup>2</sup> See committee procedure rule 7(9) – Standards committee quorum.



## 2.2 PROPER OFFICER SHALL MAKE OR TERMINATE APPOINTMENTS IF NECESSARY

### ~~Independent and Co-opted members' attendance at meetings~~

~~In the event that an independent member of the standards committee or co-opted member does not attend a meeting of the committee on which they serve for a period of six consecutive months, without the approval of the council, they shall cease to be a member of the authority.~~

## 7. ADDITIONAL RULES APPLYING TO STANDARDS COMMITTEE

### Composition

4. The committee will consist of councillors and:
  - a) ~~at least four and up to seven councillors, including at least one member of each political group as defined by the Local Government and Housing Act 1989 and Regulation 8 Local Government (Committees and Political Groups) Regulations 1990~~
  - b) ~~up to six independent members, appointed in accordance with the Relevant Authorities (Standards Committee) Regulations 2004~~
  - c) reserve members for the councillor members of standards committee equal to the number of places each political group has on the committee.
2. ~~The political balance rules in section 15 of the Local Government and Housing Act 1989 do not apply to the standards committee.~~
3. ~~Independent members must make up at least 25% of the committee's total membership.~~
4. No more than one member of the cabinet or deputy may be a member of the committee, and no cabinet member may chair the committee.
5. The leader may not be a member of the standards committee.

### Independent person members – Voting Attendance at meetings

6. The independent person shall be entitled to attend meetings of the committee or its sub-committees. The independent person may speak at the invitation of the chair. members may vote.

### Independent members – Term of office

7. ~~With six independent members, the terms of office of each member will be for four years with each member retiring at the end of their term. Members shall serve a maximum of two terms<sup>3</sup>.~~

### Chair

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

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<sup>3</sup> See also committee procedure rule 2.2(3) – Attendance at meetings.

**Quorum**

9. The quorum for the meeting of standards committee or its sub-committees is three members, ~~including at least one independent member.~~

**Sub-committees**

10. The committee is empowered to establish sub-committees to filter and review decisions, and hear complaints of misconduct against councillors (including co-opted and independent members). The membership for each sub-committee will be drawn from the pool of ~~independent members~~ and councillors on the committee, including reserve members.
11. Sub-committees shall be composed of three members ~~including at least one independent member.~~ Rules 7.2, 7.4, 7.5, ~~7.6~~, 7.8 and 7.9 shall apply to sub-committee meetings.

**PROCEDURE RULE CHANGE ON QUESTIONS, PETITIONS OR DEPUTATIONS**

The current procedure rules for meetings of the council include a standard wording in the scope of public questions, members' questions, petitions and deputations allowing a matter to be rejected by the chair, following consultation with the monitoring officer, if the subject relates to a investigation of the behaviour or conduct of an individual member or members. The current standard wording is set out below:

No question shall be asked on a matter relating to an investigation by (whether completed or not), or ruling of, Standards for England, the standards committee or the first tier tribunal (Local Government Standards for England), insofar as the question relates to the behaviour or conduct of an individual member or members.

Following the changes to the conduct regime for standards and abolition of Standards for England it is recommended to reword this rule as follows:

No question shall be asked on a matter relating to an investigation by (whether completed or not), or ruling of, ~~Standards for England~~, the standards committee or sub-committee ~~the first tier tribunal (Local Government Standards for England)~~, insofar as the question relates to the behaviour or conduct of an individual member or members.

If agreed, this change will be made to the following procedure rules: council assembly, committee, community council, cabinet and overview and scrutiny.

## APPENDIX 5

### DRAFT CODE OF CONDUCT

As a member or co-opted member of Southwark Council I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in Southwark Council this will be done as follows: *[to be completed by individual authorities]*

Members are required to register these interests within 28 days of their election and keep the register up to date by notifying any changes with 28 days to the monitoring officer.

As a Member of Southwark Council, my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.

- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Southwark Council or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources<sup>1</sup>.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.
- Assist in any investigation concerning possible breach of this Code.

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<sup>1</sup> A non exhaustive list will be attached as appendix to aid members

## **CONTRACT STANDING ORDERS ~~2011/12~~ 2012/13**

### **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
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- 2.6 Lead contract officer
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- 3.1 Corporate contracts
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- 4.1 Overview of procurement process
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- 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
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- 5.3 Works contracts and works-related services above £75,000 but below EU threshold
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#### **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 plan~~
- h) the council's commitment to the London Living Wage, as confirmed by council assembly on 29 February 2012.

## 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, who will advise the monitoring officer and the finance director.

The monitoring officer will report to the audit and governance committee any serious breach of contract standing orders or of the Procurement Guidelines.

## 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

2.5.1 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 of 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.~~

2.5.2 Chief officers must ensure that all contracts, including those with an Estimated Contract Value below £75,000, are recorded on a departmental contract register.

2.5.3 Details of all contracts with an Estimated Contract Value of £75,000 or more will be recorded on the council's central contract register.

## **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~~ consideration by the CCRB of the report
- 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~~ consideration by the CCRB of the report
- 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~~ consideration by the CCRB of the report
- 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~~ consideration by the CCRB of the report
- 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~~ consideration by the CCRB of the report
- 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~~ consideration by the relevant DCRBs of the report

- 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~~ consideration by his/her DCRB of the report
- 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 and insurance 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~~ consideration by the CCRB of the report
- 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~~ consideration by the CCRB of the report
- 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~~ consideration by the CCRB of the report
- 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~~ consideration by the CCRB of the report
- 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~~ consideration by the relevant DCRBs of the report
- 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~~ consideration by the CCRB of the report

- g) the proposed contract includes pension arrangements terms which are different from those set out in the council's Admitted Bodies policy, the decision must be taken by the finance director, after consideration of the report by the CCRB and taking advice from the Pensions Advisory Panel
- h) the Estimated Contract Value is above the relevant EU threshold but the contract does not fall into a), b), c), d), e), ~~or f)~~ or g) above, the decision must be taken by the relevant chief officer or under his/her delegated authority, after ~~taking advice from the relevant DCRB~~ consideration by the relevant DCRB of the report
- i) 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 and insurance 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)
- j) 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 £250,000 or above (for services and supplies contracts) or £1 million or above (for works contracts) and the amount of the proposed Variation is more than 10% of the Contract value, the decision must be taken by the finance director, after ~~taking advice from the CCRB~~ consideration by the CCRB of the report; 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 consideration by the CCRB of the report; 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), and after consideration by the relevant DCRBs of the report
- 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 and insurance 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**

[When estimating the value of a contract, reference should be made to the Estimated Contract Value paragraph set out in the Definitions section.](#)

##### **5.1 Contracts less than £5,000**

For all contracts where the Estimated Contract Value is less than £5,000, there is no requirement to obtain competitive quotes; the requirement is to ensure value for money and best value and to keep a record of what action has been taken and why. In addition, if the contract is for works or for works-related services, the provider must be obtained from the council's Works Approved List, unless permission is obtained to do otherwise through a Gateway 1 report; such a report must include supplementary procurement advice from the finance director or his delegated officers, without which the approval cannot be granted.

##### **5.2 Contracts from £5,000 to £75,000**

For all contracts where the Estimated Contract Value is from £5,000 to £75,000, there is a requirement to take all reasonable steps to obtain at least three written quotes, including one from a local supplier where this is possible, unless the LCO decides that this will not secure value for money. In such cases, a Gateway 1 report must be completed to explain what alternative action is being taken and why. In addition, if the contract is for works or works-related services, those invited to submit quotes must be selected from the council's Works Approved List unless permission is obtained to do otherwise through a Gateway 1 report; such a report must include supplementary procurement advice from the finance director or his delegated officers, without which the approval cannot be granted.



### **5.3 Works contracts and works-related services above £75,000 but below EU threshold**

For all such contracts where the Estimated Contract Value is above £75,000 but below the relevant EU threshold, there is a requirement to take all reasonable steps to obtain at least five tenders. Those invited to submit tenders must be selected from the council's Works Approved List unless permission is obtained to do otherwise through a Gateway 1 report; such a report must include supplementary procurement advice from the finance director or his delegated officers, without which the approval cannot be granted.

### **5.4 All other contracts not falling within 5.1 to 5.3 above**

For all contracts not covered by 5.1 to 5.3 above, there is a requirement to take all reasonable steps to obtain at least five tenders following a publicly advertised competitive tendering process, as set out in these CSOs and in line with the Procurement Guidelines.

## **6. Tender procedure**

- 6.1 Officers must seek advice from corporate procurement before using any e-procurement processes in order to ensure compliance with relevant legislative requirements. All other tender processes must comply with the following requirements.
- 6.2 Tenderers must be told that their tenders may only be considered if they follow the requirements below:
  - a) the tender must be returned in a plain envelope or parcel which is marked clearly "Tender" followed by the subject of the contract
  - b) the envelope or parcel must not show the identity of the tenderer in any way, and
  - c) the envelope or parcel must be delivered to the place and by the time stated in the tender invitation.
- 6.3 All tenders will be opened at the same time and place, after the closing date and time for receipt stated in the tender documents.
- 6.4 A tender received by the council after the time and date specified in the invitation shall not be accepted or considered.
- 6.5 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.
- 6.6 Exceptions to the requirements set out in 6.1 to 6.4 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

<u>CCRB</u>	<u>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.</u>
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 Buying Solutions or the London Contracts and Supplies Group.
<del>Contract register</del>	<del>A register of contracts held by Southwark legal services .</del>
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.
<u>Council's central contract register</u>	<u>A register of contracts, held by corporate procurement.</u>
<del>CCRB</del>	<del>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.</del>
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.
<u>Departmental contract register</u>	<u>A register of contracts, maintained by each department.</u>
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. The Estimated Contract Value should be based on the best available estimates, or on actual costs if known.

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 <a href="http://thesource/SectionLandingPage.asp?id=22344&amp;cat=1234">http://thesource/SectionLandingPage.asp?id=22344&amp;cat=1234</a> .
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"> <li>• 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)</li> <li>• those which have a significant impact on communities</li> <li>• Gateway 1 approvals in respect of a Strategic Procurement.</li> </ul>
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	Procurement where one or more of the following apply: <ul style="list-style-type: none"> <li>1) Estimated Contract Value of £4 million or more for non-works and of £15 million or more for works</li> <li>2) a significant change to previous service</li> <li>3) possible externalisation or change in manner of delivery</li> <li>4) significant transfer of assets or staff</li> <li>5) political sensitivity</li> <li>6) contract carrying a high level of risk.</li> </ul>
Tender value	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.
Urgent Payment	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).
Variation	A decision to extend the length or cost or amend the scope of a contract where the contract is capable of this. This might be a change in duration, i.e. an increase in the duration of the contract; or a change in volume, i.e. an increase in the volume usage of the contract.
Works Approved List	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.

## FINANCIAL STANDING ORDERS ~~2011/12~~ 2012/13

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**Glossary**

## **Introduction**

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

References in these standing orders to “the 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 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.

**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) All insurance decisions are the responsibility of the finance director.****i) Cap and trading schemes**

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

**j) 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.

**k) 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.

## **l) 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.

## **m) 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.

## **n) 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 council 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 (England) Regulations 2011.

**b) Strategic director's responsibilities**

- 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.
- Ensuring that corporate deadlines are met.
- Ensuring that resources are allocated through a detailed budget on SAP by the deadline set by the finance director.
- 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**

- 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.
- 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.

**d) Support for council tax**

The council must before 31 January each year approve any changes to its scheme for council tax support for the following financial year.

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

**a) Budget spending**

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

**b) Monitoring**

- i) Strategic directors must:
  - 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 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 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 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. They are available on the Source.
Minor changes	Minor changes are defined as: <ul style="list-style-type: none"> <li>• typographical/presentational/explanatory changes</li> <li>• changes in statutory framework, i.e. references to new or updated legislation</li> <li>• changes in titles, names or terminology</li> <li>• changes consequential to other constitutional changes already made.</li> </ul>
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.

## MEMBER AND OFFICER PROTOCOL

### Role and purpose

1. The purpose of this protocol is to set down principles and procedures, which have been jointly agreed by officers and members to guide their joint working in the public interest. The protocol supplements and interprets, but does not supplant:
  - statutory provisions, the code of conduct for members and other codes and guidance
  - the other provisions of the council's own adopted constitution and especially the rules of procedure
  - the disciplinary codes which regulate the conduct of officers, details of which can be found on the Source at: <http://thesource/SectionLandingPage.asp?id=2089>.
2. It contains interpretation and guidance on some of the issues which commonly arise. It cannot cover every matter which will arise in council life but it reflects an approach and sets standards which will serve as a guide to dealing with other issues. It is intended to guide new members and officers and explain to them what they can expect of each other. It also explains what to do when things go wrong.
3. This protocol also applies to voting non-elected members of committees and also to consultants and agency staff working for the council, to whom a copy should be supplied. With regard to associates from partnership organisations, where their organisation has no code of conduct, it is expected they will abide by the principles of Southwark's code and this protocol.
4. Members appointed to outside bodies or partnership organisations as representatives of Southwark Council need to be aware that the code of conduct for members will apply to these appointments. However, members are advised to be aware that other conduct arrangements of the outside body are likely to exist. In those circumstances, members should comply with both sets of conduct arrangements, unless the code of conduct for members conflicts with the lawful obligations of the outside body. Further assistance is given in the guidance for councillors on membership of outside bodies issued by the monitoring officer.

### Review

5. The standards committee and the monitoring officer will jointly keep the protocol under review and make recommendations for changes as appropriate. Review will take place in time for an updated version to be circulated annually after annual council with the new constitution, to all members and officers.

### **Definition of the role of officers and members**

6. Both councillors and officers are servants of the public and they are indispensable to one another but their responsibilities are distinct.

#### *Members*

7. Councillors are responsible to the electorate and serve only so long as their term of office lasts. All councillors have responsibilities to determine the policy of the council, monitor its performance, represent the council externally and act as advocates on behalf of their constituents. Cabinet members, chair and vice-chairs of scrutiny and other committees may also have additional responsibilities. However, all councillors have the same rights and obligations in their relationship with officers and should be treated equally.

#### *Officers*

8. Officers are responsible to the council. Their job is to give full and impartial advice to councillors and the council, and to carry out the council's work under the direction and control of the council, its cabinet, committees and sub-committees. Within these guidelines all officers should endeavour to give every assistance to members carrying out their various roles. Officers have a duty to keep members of all political groups fully informed about developments of significance in relation to council activities.

### **Member officer relations**

9. One of the key issues addressed by the member and officer protocol is the question of member officer relations. Mutual trust and respect should be the key aim of both members and officers, as it is essential for good local government.

#### *Obtaining or granting favours*

10. The member code of conduct emphasises the need for members to avoid behaviour which could be viewed as conferring an advantage or disadvantage on an officer. Members should not seek personal favours from officers. Officers should not be tempted to give favours to please a councillor. An example of favour seeking would be asking whether a councillor's parking ticket could be withdrawn or whether an application for a service could be expedited. Similarly officers should not seek to circumvent agreed staff consultative procedures by lobbying councillors on matters which directly concern them as employees.

#### *Member involvement in officer issues*

11. Issues relating to the appointment, management and dismissal of most officers are reserved by law to the chief executive and officers appointed by her. Member involvement in employment issues generally, including where they relate to senior officers is set out in the Local Authorities (Standing Orders) (England) Regulations 2001 and within the council's constitution.
12. Where an employee is also a constituent it may be proper for the member to make written/oral representations to the relevant chief officer, or disciplinary hearing, but the member should not take a proactive part representing or in any

other way advocating on behalf of any such employee in any disciplinary procedures brought by the council against the employee.

#### *Personal familiarity*

13. Personal familiarity between members and officers can undermine public confidence in the council. It is acknowledged that some close relationships will inevitably develop, particularly when officers and cabinet members or chairs of committees work closely together. It is important that close relationships between members and officers are openly declared and should never be allowed to become so close, or appear to be so close as to bring into question the officer's ability to deal impartially with other members and other party groups, nor to undermine public trust and confidence in the council. Where possible members and officers who have close personal relationships should try to avoid coming into contact on projects and in the day-to-day business of the council.

#### *Courtesy*

14. Members and officers should be courteous to each other at all times even if they disagree strongly with each others' views.

#### *Bullying*

15. Members and officers must not bully any person. Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person whom the member or officer has some actual or perceived influence over.
16. Bad relations between members and officers can be equally destructive to good governance. Members may from time to time become frustrated by what they regard as unacceptable or incompetent officer behaviour. It is self-evident that sometimes these feelings may be entirely justified although sometimes there may be a legitimate reason why member expectations cannot be met, e.g. because of a council policy or a legal requirement such as confidentiality.
17. However, members should take up their concerns through the dispute procedure described in this document, rather than through public criticism. They should bear in mind that officers are instructed not to "answer back" in public. Attacking an officer's conduct in public can ~~in severe cases~~ constitute bullying ~~as will can, and the Standards Board has already suspended one councillor for such behaviour. Similarly, undue pressure brought by either officers or members in private can be construed as bullying.~~

#### *Lines of contact between members and officers*

18. It must be remembered that officers within a department are accountable to their chief officer. Chief officers through their senior management are responsible for the allocation of work to, and the prioritising of work by, their staff.
19. Members should direct enquiries to staff through senior management, or if the matter is routine at least keep a senior manager informed by copying the manager in on correspondence or emails.

20. Officers should not leave confidential or sensitive **information** ~~paper~~ visible on their workstation or in other areas and should lock them away if they have to leave that area for any reason.
21. Where members and officers share an office building particular care needs to be taken to maintain appropriate lines of contact. Members and officers are reminded that within an open plan environment office certain standards are expected to be maintained. In particular meetings should not be held at workstations, members and officers should use the meeting facilities provided and sensitive or confidential issues should not be discussed in the open plan environment. Further details of the standards can be found on the intranet.
22. Officers should always seek to assist members but in so doing they must not go beyond the bounds of whatever authority they have been given by their chief officer under the scheme of management.

### **Visits to offices by members**

23. In relation to visits to front-line services by members, members should consider advising relevant chief officers in advance of such visits. In the case of unannounced visits to front-line services, members should take care not to disrupt organisations unreasonably. If the visit is of a statutory inspection nature other procedures apply.
24. Making an agreed time to meet with an officer is a better way of working than arriving at an officer's desk. Managers will have agreed work priorities with staff.
25. Members are advised that they carry some personal responsibilities to ensure health and safety standards are maintained at all times while on council premises and also for their private guests. Members are advised that their private guests also have personal responsibilities regarding health and safety.

### **Reports**

26. Officers' reports should contain clear, evidence-based advice as to why a course of action is being recommended. From time to time corporate advice is given to officers on report writing and they should take care to follow it. The report should lay out all relevant factors for the decision maker, and examine all alternatives in an even handed way. Officers should take care to include even unpopular options if they feel they are relevant. ~~They should bear in mind that if they have not done so and the decision is later challenged or proved to be the wrong decision they may find themselves personally and professionally liable.~~
27. Members can refuse to agree recommendations and table amendments to any recommendations. The member should be clear about the reasons for making alternative recommendations, and any amendments or recommendations proposed at a meeting should have a clear and rational basis, which is accessible to the public.
28. With cabinet reports the report writer should consult with the relevant cabinet member(s). That member is able to write his or her report in addition to the report submitted by the chief officer.

29. Where there is disagreement about the right course of action, it is always best practice for this to be open with both opinions available for discussion. Sometimes, in the course of preparing reports, these disagreements can be reconciled. However, it is always poor practice to bring pressure to bear on officers unwilling to amend their professional judgement, and in some cases this could be construed as bullying.
30. In relation to action between meetings, it is important to remember that the law only allows for decisions (relating to the discharge of any of the council's functions) to be taken by the cabinet, a cabinet member, a committee, a sub-committee or an officer. It is however both legal and good practice for cabinet members individually and as a whole, and chairs of committees to be briefed by officers in advance of meetings and also to meet to plan agendas for meetings.

### **Officer advice to party groups**

31. There is now statutory recognition for party groups and it is common for such groups to give preliminary consideration to matters of council business in advance of such matters being considered by the relevant decision making body. The opposition groups may seek support to enable them to function as an effective opposition on the bodies on which they sit.
32. Officers may properly be called upon to support and contribute to such deliberations by party groups, provided they maintain a stance which is politically impartial. Officers should be required to give information and advice to political groups on matters relating to the council's functions only and not on matters which are primarily issues of party politics or political strategy. It is important that the political neutrality of officers is preserved. When engaging council officers at group meetings, party members should seek to avoid involving them in any political debate. With the exception of political assistants, officers should not attend, or be invited to attend, any political group meeting which includes non-council members.
33. Attendance at group meetings should normally be restricted to chief officers. If other officers are required this should be organised by the chief officer.
34. These briefings are confidential, to allow the free expression of views, and officers must be careful to maintain confidentiality. However, any written report supplied to a party political group must be accessible to members of other parties.

### **Support services for members**

35. The role of officers is to assist members in discharging their role as members of the council for council business and in their role as advocates for local communities. Officers should not be used in connection with party political campaigning or for private purposes, and this includes the support offered by political assistants.
36. Council resources (e.g. stationery and photocopying) may only be used for council business or when they are directly required for any office to which the member has been elected or appointed by the council.
37. Support to members is a resource, which is subject to the same budget pressures as any other. Given its importance to how effective members can



be, it is essential that its allocation is agreed to be fair and in proportion to the duties of all groups of members.

38. Direct support and administrative help is provided by member services. Information technology support and training responsibilities are shared between a number of sections but are ~~organised~~ managed through the member services manager. From time to time training and guidelines on the proper and effective use of council supplied IT resources will be issued. Requests for further assistance or clarification should be referred in the first instance to the member services manager.
39. Use of council resources includes the use of council owned facilities. Outside of council meetings, political groups represented on the council may use ~~town hall~~ meeting rooms at 160 Tooley Street for private meetings of their group which will include ordinary group meetings and training sessions under the standard room booking arrangements. The council's new offices in Queens Road will also be available for these purposes once the building is open. In the interim, facilities are available at Cator Street. These will be withdrawn when Queens Road is commissioned. Other council owned ~~Non- town hall~~ function rooms can be hired under the council's normal conditions of charging for other types of meetings.
40. During the published normal business hours, elected members may also book meeting rooms at Tooley Street and Queens Road via member services for meetings with constituents. Any meeting outside of normal hours, or that attract special facilities or security requirements, will be chargeable. Members should discuss these matters in the first instance with member services. This facility is subject to availability and the normal booking constraints of rooms, including the priority given to official council and committee meetings and does not extend to open and public meetings as these require risk assessment and proper arrangements to be in place.
41. Where an officer is present at a meetings involving members, the officer should always lead on making the room booking arrangements.

~~Use of the council chamber for party political purposes will only rarely be permissible and applications will be referred to the monitoring officer.~~

### **Member development programme**

42. The council runs a member development scheme which is coordinated through the organisational development team. The scheme reflects the obligation on all parts of the council to ensure that all members are able to achieve their full potential in the position to which they have been elected. When this is achieved it benefits the council as a whole and the people of the borough but it also improves the mutual understanding of members and officers.
43. Further advice on support for members can be obtained from ~~democratic services or~~ member services.

### **Use of Information Technology**

44. Where a member is using or accessing the council's resources, s/he must act in accordance with the council's requirements and ensure such resources are not used for any unauthorised or political purpose. This includes information

technology (IT) resources; the term 'IT', means computers and any systems used to create, store, **print** or exchange information electronically. Similarly 'computer' means an electronic device used for storing and processing information, such as desktop and notebook computers (laptops) and hand held devices (such as BlackBerrys).

45. Members must not use any computer equipment and systems supplied by the council to conduct any business activity other than for their role as a councillor.

### **Using and caring for equipment**

46. Members have a personal responsibility for any IT equipment supplied to them by the council and should take all reasonable steps to ensure that this equipment is kept safe and in good working order. Members should report any loss/theft to member services, but should note that only one issue and one upgrade will be paid for by the council in any 4-year term of office. Members should report any technical problems, lack of service etc. to the council's contractor.
47. Members are advised to consider adding council issued equipment to their home insurance arrangements. Members will be able to claim any additional related premium from the council.
48. A restricted level of personal use of the equipment is permitted provided it does not constitute misuse as detailed in the communication protocol. Members will need to:
1. reimburse the council for any personal use of equipment that incurs a cost to the council or;
  2. confirm that all costs were associated with official council business.

Members will also be responsible for any use of equipment, authorised by them or not (unless reported lost or stolen), and hence any associated costs.

49. Members are reminded that details of expenses paid on their behalf are published on the Southwark website.
50. IT equipment supplied to members remains the property of the council and must be returned when their period of office ends. In addition, members may be asked to return the equipment for servicing.

### **Political assistants**

51. The Local Government and Housing Act 1989 gives councils a power to appoint political assistants to qualifying political groups. Southwark Council currently employs political assistants to the two largest groups. Political assistants are council officers who are employed to assist members of a political group, "in the discharge of any of their functions as members of a relevant authority". Unlike other officer appointments, the political affiliations and preferences of the political group for whom the assistant is hired can be taken into account in the selection process. They provide a useful means of broadening the base of advice to members.
52. The act also restricts the work that political assistants can do. A political assistant's role is to provide assistance to members in carrying out their duties

as members of the authority, and not in any additional political, or other, activity. For example, political assistants are not employed to work on election campaigns. Political assistants hold politically restricted posts under the Local Government and Housing Act 1989, and therefore also face restrictions on their personal political activity.

### **Members' access to information and council documents and data information**

53. Members often require access to information to carry out their work in decision making, scrutiny, and representing their constituents. Officers should always process such requests promptly. They are required to ensure that the information required can be released. In some cases they will need to consult their managers or third parties who may hold the information, which may cause some delay.
54. The process for obtaining information is set out in the access to information rules in the council's constitution. Advice on the legal framework can be obtained from the monitoring officer.
55. The common law right of members is based on the principle that any member has a prima facie right to inspect council documents so far as his/her access to the documents is reasonably necessary to enable the member properly to perform their duties as a member of the council. This principle is commonly referred to as the "need to know" principle and it is well established that a member has no right to "a roving commission" to go and examine documents of the council. The crucial question is the determination of the "need to know" and this question must initially be determined by the particular chief officer whose department holds the document in question (with advice from the monitoring officer).
56. In some circumstances (e.g. a cabinet or scrutiny committee/sub-committee member wishing to inspect documents relating to the functions of their portfolio/committee/sub-committee) a member's "need to know" will normally be presumed, and also where the member is representing a constituent within his ward, although in these cases there may be legal reasons restricting the information that can be produced. In other circumstances (e.g. a member wishing to inspect documents which contain personal information about third parties) a member will normally be expected to justify the request in specific terms, possibly in writing.
57. Guidance on holding and processing data to comply with the Data Protection Act can be found on the Source. ~~Assistance with compliance~~ Registration is coordinated by member support services, but members should be aware that they are personally responsible under the act, and should take care to follow any guidance issued.

### *Confidentiality*

58. Sometimes information will be supplied in confidence and paragraph 4 of the Southwark Council's code of conduct for members makes it clear that such information should not be disclosed without the consent of a person authorised to give it, or unless he or she is required by law to do so.
59. Recent case law confirms that a member may benefit from the public interest defence in some specific circumstances. However, those circumstances are

rare and any member considering leaking confidential information should take legal advice immediately where their actions may impact on them as individuals.

60. Members are also reminded that there is an agreed process for applying for the release of information contained in the Freedom of Information Act 2000. Further details of this are available on the council's website.

### **Freedom of Information Act 2000**

61. Under the Freedom of Information Act (FOI), councillors like other members of the public have a general right, subject to any applicable exemption, of access to information. Requests under the Freedom of Information Act must be in writing and contain sufficient information to enable the document to be identified. There is a requirement under the act that for the information to be disclosed within 20 working days.
62. There is no requirement under the act for the member to specify whether or not the information is requested under the Freedom of Information Act. Officers should therefore in all cases ascertain from the member whether or not the information is sought under the Freedom of Information Act and if so to advise the member that the request will be dealt with within the statutory time limit of 20 working days.
63. Where the request is for access to documents that are unrelated to any council meeting or where the member requesting the information is not the ward member, officers must inform the member that the request is being treated as a freedom of information request and that a response will be provided within 20 working days.

### **Operation of the overview & scrutiny committee and its sub-committees**

64. The overview & scrutiny committee and its sub-committees may require officers and members to attend and provide any information required to answer questions. It is the duty of any officer or member to attend and answer questions (other than those which he or she would be entitled to refuse to answer in a court of law) if the overview & scrutiny committee and its sub-committees so request. The council may consider that chief officers and other senior managers as described in the departmental schemes of management and not more junior staff are the appropriate officers to attend scrutiny meetings and answer questions.
65. Members of the overview & scrutiny committee or one of its sub-committees should explain the role and operation of the committee/sub-committee, particularly in relation to future policy development, before asking questions of witnesses. Members should adopt an inquisitorial (information seeking) approach to questioning rather than a confrontational one. They may be firm and assertive, but adopting a facilitative and exploratory way of working should generate an atmosphere in which members and officers can explore issues openly and honestly. Under no circumstance should members adopt a rude or aggressive style.
66. Officers should provide all relevant information in their possession, and they should use their best efforts to make sure that they possess all relevant information. They should never seek to conceal or 'improve' inconvenient facts,

and more senior officers, or other members should never attempt to persuade them to do so.

67. Reports of scrutiny committees, while drafted by officers, are the reports of the committees themselves and there is nothing improper in members of those committees asking for draft reports to be amended.

### **Ceremonial events**

68. Civic ceremonial events will normally be led by the Mayor or the Deputy Mayor with the leaders of all political groups and other local members informed or invited as appropriate.

### **When things go wrong**

#### **Procedure for officers**

69. It is always preferable to resolve matters informally, through an appropriate senior manager. Officers however do have recourse to the staff complaints procedure (which is contained in Managing@Southwark), the protections laid down in the officer employment procedure rules (contained in part 4 of the constitution) or to the council's monitoring officer. In some cases they may wish to utilise the council's whistleblowing procedure (again contained in Managing@Southwark). In the event of a complaint being upheld, the matter will be referred to the chief executive. A local solution may be found after discussion with the leader of the council and the leader and/or whip of the group concerned. ~~Referral of the matter to the Standards Board, should be considered, particularly in serious cases, and~~ The advice of the monitoring officer should be sought.

#### **Procedure for councillors**

70. Where a councillor is dissatisfied with the conduct of an officer, and they have been unable to resolve the issue, they should refer the matter to the officer's relevant chief officer, who will nominate an appropriate manager to carry out any investigation required. The manager should then make a preliminary investigation and consider whether the council's disciplinary and capability procedure is appropriate, and then follow the appropriate procedure. The manager should then report back to the member concerned that the appropriate procedures have been followed.
71. Where the complaint relates to a chief officer or monitoring officer, the complaint may be referred to the chief executive for an informal review, conciliation and resolution where possible. If the matter is not resolved at this preliminary stage or in cases of serious complaints, the chief executive, taking appropriate advice will consider whether any formal process under the council's employment procedures and as set out in the officer employment procedure rules, as appropriate.
72. Where a complaint relates to the chief executive both the member concerned and the chief executive should consider whether a meeting may resolve the situation and whether that could be facilitated by the whip or leader of the relevant political group, if any, attending. The chief executive will provide the member with a written response to their complaint.

73. If the member remains dissatisfied with the response of the chief executive he or she will notify the monitoring officer and the head of human resources in writing and they will prepare a report for consideration by the leader of the council. The leader of the council, taking advice as appropriate, will have regard as to whether a formal process, as set out in the Local Authorities (Standing Orders)(England) 2001 is appropriate.

#### **Standards committee**

74. The function of the standards committee is set out in the council's constitution. It has a role in offering guidance on the content and working of this protocol, although it will not arbitrate, except in considering cases relating to potential breaches of the code of conduct for members.

## 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 on 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. 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 (i.e. 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. Publicity of individual councillors should avoid personalisation of issues or personal image making.

### **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.

### **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 communications 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.
23. In addition, where members are present as voting members at any meeting where they are determining any application for any approval, consent, licence, permit or permission, they should not access the internet, send or receive emails, texts, messages or tweets concerning the business of that committee.
24. ~~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.~~
25. ~~Councillors in key positions should only comment on behalf of the council in an emergency.~~
26. Any publicity should be objective, factual, not deal with controversial political issues and avoid personalisation of the issues or inappropriate personal image making.
27. ~~Any publicity about events or services must be factual and not party political.~~
28. ~~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.~~
29. The council should not produce publicity designed to influence the views of local people on petitions, referendums or specific proposals.
30. ~~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**

31. 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.
32. 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.
33. 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**

34. 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.
35. 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.
36. 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.
37. 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**

38. 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.
39. 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**

40. 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**

41. 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.
42. 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.
43. 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**

44. 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.
45. 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.

46. 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.
47. 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**

48. 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.
49. 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.
50. Members should note the requirements for social media are given in paragraphs 21 and 22.
51. Members should remember that emails may be subject to disclosure if a request is made under the Freedom of Information Act 2000.

52. 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.
53. 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.
54. 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.
55. 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.

## CONSTITUTIONAL REVIEW 2012/13

## RECOMMENDATIONS OF CONSTITUTIONAL STEERING PANEL - 9 MAY 2012

NO.	LIBERAL DEMOCRAT GROUP CONSTITUTIONAL CHANGES	CSP RECOMMENDATIONS
1.	<p><b>PARA 25 (RELATING TO COMMITTEE PROCEDURE RULES ARTICLE 6 – ADDITIONAL RULES APPLYING TO AUDIT AND GOVERNANCE COMMITTEE)</b> Delete all after ‘it is recommended that committee procedure rule 6.1’ and replace with” “and 6.2 on the size and membership of the committee is deleted and 6.4 is amended, with subsequent clauses renumbered, as set out below:”</p> <p><b>6. ADDITIONAL RULES APPLYING TO AUDIT AND GOVERNANCE COMMITTEE</b></p> <p><b>Composition</b></p> <p><i>1. The committee will consist of at least three councillors, and up to five councillors, including at least one member of each political group as defined by the Local Government and Housing Act 1989 and Regulation 8 of Local Government (Committees and Political Groups) Regulations 1990.</i></p> <p><i>2. No more than one member of the cabinet or deputy may be a member of the committee, and no cabinet member may chair the committee.</i></p> <p><i>3. No more than one member of the overview and scrutiny committee may be a member of the committee, and no overview and scrutiny committee member may chair the committee.</i></p> <p><i>4. <u>No member of the cabinet, nor the leader of the council may be a member of the committee.</u></i></p>	Not recommended.
2.	<p><b>PARA 28 (RELATING TO ARTICLE 8 – COMMUNITY COUNCILS)</b> Delete all and replace with 28.1: “There will be eight community council areas covering the Borough of Southwark”</p>	Not recommended.  <b>Note:</b> As this proposal relates to the budget and policy framework it would have to be referred back to cabinet to consider and make recommendations to council assembly. There would be potential financial



NO.	LIBERAL DEMOCRAT GROUP CONSTITUTIONAL CHANGES	CSP RECOMMENDATIONS
		implications associated with this amendment.
3.	<p><b>PARA 28 (RELATING TO ARTICLE 8 – COMMUNITY COUNCILS)</b> Add paragraph 28.2: “The total budget for the running of community councils will be divided between the eight community council areas and any decisions on spending priorities or savings will be identified locally.”</p>	<p>Not recommended.</p> <p><b>Note:</b> As this proposal relates to the budget and policy framework it would have to be referred back to cabinet to consider and make recommendations to council assembly. There would be potential financial implications associated with this amendment.</p>
4.	<p><b>PARA 28 (RELATING TO ARTICLE 8 – COMMUNITY COUNCILS)</b> Add paragraph 28.3: “The eight community councils will take all decisions relating to the delivery of discretionary council services within their community council area.”</p>	<p>Not recommended.</p> <p><b>Note:</b> The issue of eight community councils is addressed above. On the issue of “discretionary services”, a significant number of these functions would be executive responsibilities and under the strong leader arrangements it would be for the leader to make these delegations. If agreed, this proposal would require further work to clarify an appropriate scheme of delegation, including discretionary services.</p>
5.	<p><b>PARA 28 (RELATING TO ARTICLE 8 – COMMUNITY COUNCILS)</b> Add paragraph 28.4: “The eight community councils will take local planning decisions within their community council area.”</p>	<p>Not recommended.</p> <p><b>Note:</b> As this proposal relates to the budget and policy framework it would have to be referred back to cabinet to consider and make recommendations to council assembly. There would be potential financial implications associated with this amendment.</p>
6.	<p><b>PARA 52 (RELATING TO PART 3M: STANDARDS COMMITTEE)</b> Insert after ‘The committee would be subject to the rules on proportionality’: “and no member of the cabinet, nor the leader of</p>	<p>Not recommended.</p>

NO.	LIBERAL DEMOCRAT GROUP CONSTITUTIONAL CHANGES	CSP RECOMMENDATIONS
	the council may be a member of the committee.”	
7.	<p><b>PARA 68 (RELATING TO PART 4: RULES – OVERVIEW AND SCRUTINY COMMITTEE)</b> Delete paragraph 68 and replace with: “All five existing scrutiny bodies will be retained and any required financial savings will be obtained by reducing officer support for scrutiny and for councillors (especially the chairs of the committees) to assume the shortfall.”</p>	<p>Not recommended.</p> <p><b>Note:</b> As this proposal relates to the budget and policy framework it would have to be referred back to cabinet to consider and make recommendations to council assembly. There would be potential financial implications associated with this amendment.</p>
8.	<p><b>PARA 69 (RELATING TO PART 4: RULES – OVERVIEW AND SCRUTINY COMMITTEE)</b> Amend paragraph 2.2.a to read: “a chair, who will be a representative of the majority opposition group, appointed by council assembly”</p>	<p>Not recommended.</p>
9.	<p><b>PARA 69 (RELATING TO PART 4: RULES – OVERVIEW AND SCRUTINY COMMITTEE)</b> Insert new paragraph 2.2.e to read: “the Overview and Scrutiny Committees will comprise of 11 members”</p>	<p>Not recommended.</p> <p><b>Note:</b> At the annual meeting the political composition of the Overview &amp; Scrutiny Committee is considered as part of a separate report on the establishment of committees.</p>
10.	<p><b>PARA 69 (RELATING TO PART 4: RULES – OVERVIEW AND SCRUTINY COMMITTEE)</b> Insert new paragraph 2.2.e to read: “the Overview and Scrutiny Committees will comprise of 9 members”</p>	<p>See 9 above.</p>
11.	<p><b>PARA 69 (RELATING TO PART 4: RULES – OVERVIEW AND SCRUTINY COMMITTEE)</b> Insert new paragraph 2.2.e to read: “the Overview and Scrutiny Committees will comprise of 7 members”</p>	<p>See 9 above.</p>
12.	<p><b>PARA 92 (PART 6: MEMBERS’ ALLOWANCES SCHEME)</b> Inset new paragraph 92.1 to read: “This report will include the recommendation that 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>	<p>Not recommended.</p> <p><b>Note:</b> There is a separate report on the member allowances scheme.</p>

NO.	LIBERAL DEMOCRAT GROUP CONSTITUTIONAL CHANGES	CSP RECOMMENDATIONS
13.	<p><b>NEW RECOMMENDATION (PART 3: WHO TAKES DECISIONS? – STRONG LEADER AND DELEGATIONS BY THE LEADER)</b> Delete all in ‘Strong leader and delegations by the leader’ section and replace with:</p> <p><b><i>Democratic accountability within the council</i></b></p> <p><i>The current executive model of governance should be replaced by a return to the former committee system, in line with support of the principle of localism, and that a review will be undertaken to devolve some of the council assembly and cabinet decision-making powers to committees or sub-committees.</i></p> <p>Amend all further references to the cabinet, role of the leader and delegations by the leader accordingly.</p>	Not recommended.
14.	<p><b>NEW RECOMMENDATION (PART 2: ARTICLE 6.10 – DEPUTY CABINET MEMBERS)</b> Delete all.</p>	Not recommended.
15.	<p><b>PARA 43 (RELATING TO PLANNING COMMITTEE – ROLES AND FUNCTIONS / MATTERS RESERVED FOR DECISION)</b> Delete all.</p>	Noted and political groups to consider further.
16.	<p><b>PARA 46 (RELATING TO SUB-COMMITTEE MEETINGS IN PRACTICE)</b> Delete all.</p>	Recommended that this paragraph be deleted from report submitted to the annual meeting.
	<p><b>COUNCIL ASSEMBLY PROCEDURE RULES (AGENDA ITEM 6)</b></p>	
17.	<p><b>PARA 14 &amp; 15 (RELATING TO COUNCIL ASSEMBLY PROCEDURE RULES – THEMED DEBATE)</b> Delete all of paragraphs 14 &amp; 15.</p> <p><b>NEW RECOMMENDATION (PART 4 - COUNCIL ASSEMBLY PROCEDURE RULES: THEMED DEBATES – PARA 2.7)</b> Delete all. Amend all further references to themed debates accordingly.</p>	Not recommended.
18.	<p><b>PARA 15 (RELATING TO COUNCIL ASSEMBLY PROCEDURE RULES – THEMED DEBATE)</b> Add paragraph 15.2: “In advance of the relevant council assembly meeting, and in addition to the verbal presentations during the debate, both the majority and opposition</p>	<p>Not recommended.</p> <p><b>Note:</b> This proposal does not specify a deadline for submission of statements so members have advance</p>

NO.	LIBERAL DEMOCRAT GROUP CONSTITUTIONAL CHANGES	CSP RECOMMENDATIONS
	spokesperson will provide a written statement relating to the themed debate which will be published in advance in the council agenda.”	notice of them.
19.	<p><b>NEW RECOMMENDATION (PART 4 - COUNCIL ASSEMBLY PROCEDURE RULES: GUILLOTINE – PARA 1.12)</b></p> <p>In the interests of democratic accountability, it is recommended that the guillotine should take effect three hours after the end of the time allocated to receiving deputations. This change will ensure that urgent council business is not lost due to the amount of time being taken at the beginning of the meeting by deputations.</p> <p>A constitutional amendment to paragraph 1.12 section 1 is set out below:</p> <p><b><i>Concluding the meeting</i></b>  <i>1. The guillotine shall take effect three hours after the end of the time allocated for council assembly to receive deputations.</i></p>	<p>Not recommended.</p> <p><b>Note:</b> It was reported to CSP that this change would potentially lead to longer meetings, depending on how the guillotine was calculated.</p> <p>Practically when calculating the guillotine you could discount any non-deputation business, for example public questions, motions brought forward or other variations to the order of business or preliminary business.</p>
20.	<p><b>NEW RECOMMENDATION (PART 4 - COUNCIL ASSEMBLY PROCEDURE RULES: GUILLOTINE – PARA 1.12)</b></p> <p>In the interests of democratic accountability, it is recommended that the 30 minutes allocated for members questions should not be affected by the guillotine and shall still be considered if not completed by the time that the guillotine has fallen.</p> <p>A constitutional amendment to paragraph 1.12 section 3 and 4 is set out below:</p> <p><b><i>Concluding the meeting</i></b>  ...  <i>3. The following outstanding business shall be considered:</i></p> <ul style="list-style-type: none"> <li>• <i>any business required by statute</i></li> <li>• <i>approval of minutes of council assembly</i></li> <li>• <i><u>questions by members</u></i></li> <li>• <i>each individual report with a recommendation, be it from the cabinet, committee or officer</i></li> <li>• <i>any other business accepted by the Mayor as late and urgent business.</i></li> </ul> <p><b><i>Process for dealing with any outstanding business (Fifteen minute debate rule)</i></b>  <i>4. Each item of business, except questions by members, specified in rule 1.12(3) shall be afforded up to a maximum of 15 minutes. If the matter is not concluded within that time the Mayor</i></p>	<p>Not recommended.</p> <p><b>Note:</b> It was reported to CSP that this proposal would make for longer meetings.</p>

NO.	LIBERAL DEMOCRAT GROUP CONSTITUTIONAL CHANGES	CSP RECOMMENDATIONS
	<p><i>shall, if appropriate, call upon the mover of the substantive motion to exercise their right of reply and a vote shall be taken. In circumstances where the council is legally obliged to make a decision, but the motion or recommendation voted upon is lost, the Mayor will take motions from the floor, each allocated up to a maximum of 15 minutes, until a decision is reached. Questions from members will be afforded the full time allocation of 30 minutes.</i></p>	
21.	<p><b>NEW RECOMMENDATION (PART 4 - COUNCIL ASSEMBLY PROCEDURE RULES: URGENT QUESTIONS BY GROUP LEADERS – PARA 2.8)</b> In the interests of democratic accountability, it is recommended that group leaders are able to also ask urgent questions of deputy cabinet members.</p> <p>A constitutional amendment to paragraph 2.8 section 2 is set out below:</p> <p><b>2. Who can ask urgent questions?</b> <i>The leader of each group, or in his or her absence the deputy leader, may ask an urgent question of:</i></p> <ul style="list-style-type: none"> <li>• <i>the Mayor</i></li> <li>• <i>a member of the cabinet <u>or deputy cabinet member</u></i></li> <li>• <i>the chair of any committee, sub-committee or community council</i></li> </ul>	Not recommended.
22.	<p><b>NEW RECOMMENDATION (PART 4 - COUNCIL ASSEMBLY PROCEDURE RULES: QUESTIONS BY MEMBERS – PARA 2.9)</b> In the interests of democratic accountability, it is recommended that all members are able to also ask questions of deputy cabinet members.</p> <p>A constitutional amendment to paragraph 2.9 section 2 is set out below:</p> <p><b>2. Who can ask questions?</b> <i>A member of the council may ask one question of:</i></p> <ul style="list-style-type: none"> <li>• <i>the Mayor</i></li> <li>• <i>a member of the cabinet <u>or deputy cabinet member</u></i></li> <li>• <i>the chair of any committee, sub-committee or community council</i></li> </ul>	Not recommended.

NO.	LIBERAL DEMOCRAT GROUP CONSTITUTIONAL CHANGES	CSP RECOMMENDATIONS
	<b>MEMBER ALLOWANCES SCHEME (AGENDA ITEM 7)</b>	
23.	<b>NEW RECOMMENDATION (PART 6 – MEMBER ALLOWANCES SCHEME: SPECIAL RESPONSIBILITY ALLOWANCE – PARA 6)</b> Delete all after ‘as set out below:’ and replace with: <ul style="list-style-type: none"> <li>• more than 0 hours but up to 1 day elsewhere, 4/5 SRA</li> <li>• 1 to 2 days elsewhere, 3/5 SRA</li> <li>• 2 to 3 days elsewhere, 2/5 SRA</li> <li>• 3 to 4 days elsewhere, 1/5 SRA</li> <li>• 4 to 5 days elsewhere, no SRA</li> </ul>	Not recommended.

NO.	CONSERVATIVE GROUP AMENDMENTS	CSP RECOMMENDATIONS
1.	Planning Committee  Top of Page 34 delete (i) and (ii).	Not recommended.
2.	Planning Committee  Page 34 c) delete "the appropriate chief officer in consultation"	Not recommended.
3.	Planning Sub-Committees  Page 35 Para 12, there appears to have been a "cut and paste" job, in that it refers in the detailed text to "planning committee" and it should be "planning sub-committee"	Noted that this was a typographical error and would be corrected in final version.
4.	Planning Sub-Committees  Page 35 Para 12, b) delete (i) and (ii).	Not recommended.
5.	Planning Sub-Committees  Page 36 c) delete "the appropriate chief officer in consultation" and insert "sub"	Not recommended.
6.	Contract Standing Orders  CSO has to be precise as failure of officers to comply with it is illegal/has very serious consequences.  Page 51 Para 2.1 a new h) concerning the council's policy on the London Living Wage has been added and probably should be deleted again. The current policy is too imprecise as to which 3rd party organisations need to comply and how they need to comply.	Recommended with officer's revised wording as follows:  "Revised new 2.1 h) the council's commitment to the London Living Wage, as confirmed by council assembly on 29 February 2012"

NO.	CONSERVATIVE GROUP AMENDMENTS	CSP RECOMMENDATIONS
7.	<p>Communication Protocol</p> <p>Page 97 final Para 45. Is this piece on non fixed location surgeries new? if not, when was it first added?</p>	<p>Noted that the final part of paragraph 45 was a new addition to the constitution in May 2009.</p>
8.	<p>Council Assembly Procedure Rules</p> <p>Page 103 para 24 on Postponing and Cancelling meetings. This gives too much power to the Chair. There are statutory dates for rate making and Annual Council, surely the Mayor can't be allowed to override these.</p>	<p>Noted that this rule change would not "override" the council's statutory responsibilities, however it would give flexibility to change the dates or venue in exceptional circumstances that may well be beyond the council's control.</p>

<b>Item No.</b> 3.5	<b>Classification:</b> Open	<b>Date:</b> 23 May 2012	<b>Meeting Name:</b> Council Assembly
<b>Report title:</b>		Member Allowances Scheme	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Constitutional Steering Panel	

## RECOMMENDATION

1. That Council Assembly adopts a revised Member Allowances Scheme (see paragraphs 8-16 of this report).

## BACKGROUND INFORMATION

2. The current scheme was last amended by council assembly on 24 May 2011 by way of adopting a revised Member Allowances Scheme for 2011/12.
3. 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.
4. Before making, amending or reworking its allowance scheme, the council is required, by the Regulations, to have regard to any 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.

## KEY ISSUES FOR CONSIDERATION

5. On 9 May 2012 the Constitutional Steering Panel considered the proposals to revise the Member Allowances Scheme (set out in paragraphs 8-16 of this report) and agreed to recommend the changes to Council Assembly for adoption. The proposed amendments to the scheme are set out below (changes/additions are underlined; deletions are shown with a strikethrough) 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

6. Members should note that some positions or the number of positions attracting a special responsibility allowances (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.



## Basic Allowance

7. No change is required to the basic allowance as it is fixed to the rate of local government pay settlement, now subject to a pay freeze. The figure will remain at £10,599 unless members specifically agree to change it. The Constitutional Steering Panel did not recommend any change.

## Allowances

8. On 23 February 2012, council assembly (council tax setting meeting) agreed to the addition of two planning sub-committees. In the constitutional review report, officers have recommended sub-committees of 7 members as this is consistent with the size of the main planning committee. It is proposed that the role of planning sub-committee chairs should attract an SRA.
9. 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 1b applies.

Para	Existing scheme	Proposed scheme
5	Band 1b	Add " <u>Planning sub-committee chairs</u> " to the list

10. The standards committee has received regular reports from the strategic director of communities, law & governance outlining the proposed changes to the standards regime, most recently on 24 April 2012. On 9 November 2011, the committee were advised that there were a number of choices for it to consider:
- what recommendations it would like to make on retaining a standards committee.
  - what recommendations it would like to make on retaining independent members.
11. Members advised that they felt that the standards committee worked well and that the future role and functions of the standards committee should be as close to the current regime as possible
12. On 12 January 2012, officers reported that government had announced that the arrangements for the new standards regime would now take effect from 1 July 2012 allowing more time to adopt a new code of conduct at the May annual meeting and to appoint independent persons. It was resolved that an informal discussion group be set up to allow members and officers to work on the proposals for the future shape of the standard's committee.
13. It was reported to standards committee on 24 April 2012, that the current independent members would remain as part of the current standards committee until 30 June 2012. Therefore any changes to allowances for existing independent members, including the chair of the existing standards committee, would take effect after 30 June 2012.

14. Officers and members recommended the withdrawal of Band 1a SRA currently allocated to the independent chair of standards committee.

Para	Existing scheme	Proposed scheme
19.a	Independent chair of standards committee – Band 1a SRA	No SRA

15. As the new committee would be an 'ordinary committee', persons other than members could only be appointed to it as co-opted members. These cannot vote but can take part in proceedings.
16. Under our current scheme of allowances these co-opted members would not be paid an allowance but would receive expenses. Members have already expressed a preference for the new standards committee to have co-opted non-voting members.

The proposed changes to paragraphs 19-25 are set out below:

Para	Existing scheme (with proposed changes)
19-25	<p><b>Co-opted members</b></p> <p>19. The following allowances are payable to co-opted members:</p> <p><del>a) The chair of standards committee should receive a band 1 allowance but no allowance under (b) below</del></p> <p>b) All other statutory co-optees (i.e. <del>standards committee members and</del> statutory co-optees to the education committee) should receive an annual allowance; for <u>2012/13</u> <del>2011/12</del> this is £1,061</p> <p>c) No statutory co-optees may receive more than one allowance under <del>(a) or (b)</del> above</p> <p>d) That statutory co-optees should be subject to the same travel and subsistence claim regime as councillors, i.e. not able to claim for intra borough travel and subsistence except where one of the exceptions applies</p> <p>e) Non-statutory co-optees should be able to claim re-imbursment of travelling and subsistence expenses.</p> <p>20. Co-optees may, in writing to the monitoring officer, elect not to receive allowances.</p> <p>21. <del>Allowances to standards committee co-optees should be payable from the date of their appointment.</del> The allowance to education co-optees should be payable from the date of appointment.</p> <p>22. Co-optees allowances are subject to the same index linking as members' allowances generally.</p> <p>23. Co-optees do not receive the basic allowance.</p> <p>24. If a co-opted member does not serve for the whole of the 12 month period, or become disqualified, they will only be entitled to pro-rata payments for the period(s) during which they were actually a serving co-opted member.</p>

Para	Existing scheme (with proposed changes)
	25. Both statutory and non-statutory co-opted members are entitled to claim dependant carer's allowance as set out in paragraphs 17-18.

### Resource implications

17. There are no additional resource requirements associated with the adoption of a revised scheme.
18. The proposed introduction of SRAs for planning sub-committee chairs, assuming a maximum of two, can be contained within existing budgets if the current proposed level of SRA is maintained.

### Legal implications

19. 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
Member Allowance Scheme 2011/12 (CSP report)	On-line on council's website	Ian Millichap 020 7525 7225
Democracy Commission report 7 December 2011	On-line on council's website	Ian Millichap 020 7525 7225
Standard's Committee report 12 January 2012	On-line on council's website	Ian Millichap 020 7525 7225

### AUDIT TRAIL

<b>Lead Officer</b>	Deborah Collins, Strategic Director of Communities, Law & Governance	
<b>Report Author</b>	Stephen Douglass, Head of Community Engagement	
<b>Version</b>	Final	
<b>Dated</b>	10 May 2012	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Strategic Director of Communities, Law & Governance	Yes	Yes (included in body of report)
Finance Director	No	No
<b>Cabinet Member</b>	No	No
<b>Date final report sent to Constitutional Team</b>	10 May 2012	

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MUNICIPAL YEAR 2012/13**

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

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Gerri Scott	1	<b>Local M.P.</b>	<b>1</b>
		Simon Hughes M.P.	
		<b>Others</b>	<b>2</b>
		Shahida Nasim, Audit Commission, Ground Floor, Tooley Street	1
		Mr. Mark Roelofsen	1
		<b>Total:</b>	<b>123</b>