

## **Background information on the Council Assembly's role and scope for change**

### **Introduction**

1. The constitution allocates responsibility for particular functions to council assembly, including approving the budget and policy framework. The policy framework will include the approval of strategies as defined in the constitution, like the corporate plan and the development plan documents. These are set out in part 3A, paragraph 9 of the constitution.
2. The council has the power to delegate any of its functions, within certain limitations set by law, e.g. there are some decisions the council assembly must take itself, such as setting the level of council tax. By law the cabinet has responsibility for the executive functions of the council, which have to be discharged by the leader or delegated by him to another decision maker. Council assembly will delegate the non-executive responsibilities of the council to its committees. Each meeting of the council and decision makers is listed in Part 3 of the constitution. This also sets out:
  - the roles and functions of the meeting or decision maker – this is a broad description of the areas of responsibility, sometimes known as the “terms of reference”
  - the matters reserved for decision by the meeting or decision maker.
3. Any area of responsibility that is not specifically listed under the matters reserved for a meeting or individual decision maker is deemed to be delegated to the senior officers in the relevant department (the most senior officers are the chief officers and the heads of service who report to them).

### **What the Council Assembly does**

4. All councillors and the Mayor, acting together as the full council, will have responsibility for the list of matters reserved to council assembly as set out in part 3A of the constitution. This lists those reports or matters which can only be decided by council assembly. All of these are required by statute or a direct result of the executive arrangements operated by the council. However in some areas e.g. the policy framework there is some scope for other plans and strategies to be added or subtracted such as policy on community councils, which was added to the constitution locally.
5. Part 3A includes [where law or statute requires a matter to be decided by council assembly this is marked with an asterisk (\*):
  - \*Appoints Mayor
  - \*Receives the Leader's report on the delegation of executive functions at the annual meeting
  - \*Establishes committees and appoints chairs and vice chairs, except chair of standards committee
  - \*Agrees constitution
  - \*Agrees the budget and sets the council tax
  - \*Agrees the Policy Framework plans and strategies, most of these are statutory requirements
  - \*Agrees licensing and gambling statements of policy
  - \*Confirms appointment of head of paid service i.e. chief executive

- \*Makes, amends, revokes, re-enacts or adopts by-laws or opposes making local legislation
- \*Adopt the local authority's code of conduct
- \*Agrees members' allowances scheme
- \*Confers title of Honorary Alderman or Freedom of the Borough
- \*Agree any application to the Secretary of State in respect of any housing land transfer
- \*To consider petitions submitted under the Council's petition scheme
- \*Taking decisions in respect of functions which are the responsibility of the cabinet which are not in accordance with the policy framework or budget agreed by council assembly
- \*Taking decisions in respect of functions which are not the responsibility of the executive and which have not been delegated by council assembly to committees, community councils, sub-committees or officers
- Receives reports for decisions and information from Cabinet
- Provides an opportunity councillors to ask questions to Cabinet (members' questions)
  - holds cabinet to account
  - often seen as only way for the opposition to get information
  - Maximum of 30 minutes allowed
- Debates members' motions:
  - Motions can be made on any subject for which the council has powers or duties or that affects Southwark
  - Principal means for members to raise issues
  - Generally 45 minutes to 1 hour per meeting dedicated debating motions
  - While it would be in order for council assembly to discuss a motion, if agreed the issue must be referred to the cabinet if it relates to consideration of any of the following:
    - to change or develop a new or existing policy
    - to instruct officers to implement new procedures
    - to allocate resources.
- Takes public questions
  - Anyone who lives or is business ratepayer can ask a question
  - On average 1 question per meeting or less
  - Questions can be on any subject for which the council has powers or duties or that affects Southwark
  - Maximum of 15 minutes allowed
  - Questions often directed to Cabinet if there is not a council assembly meeting due
  - Local issues raised at community councils

### **What the Council Assembly cannot do**

6. Council assembly cannot make decisions on executive functions (e.g. on (i.e. housing, social services, regeneration, environment, education etc) – only the Cabinet or a member of the executive or community council exercising delegated authority from the cabinet or an officer can take these decisions. If Council Assembly agrees on something that is an “executive function” the decision has to be referred as a recommendation to Cabinet.

### **Development of Council Assembly**

7. Over the last few years the number of meetings was reduced. It was increased at the annual meeting in May 2010 with one extra meeting called in October so

there are currently a total of 7 meetings per year. Annual meeting (mayor making and constitutional), budget and council tax setting meeting and 5 ordinary meetings. It has suggested that in the future the annual meeting may be split into two separate meetings and the mayor making part combining with civic awards. Other changes include:

- Changes to rules about deputations: previously Council Assembly took the first 3 deputations put forward regardless of content. In 2008 the rules were changed to say that deputations for whom council assembly was not the main decision maker should be referred the relevant decision making body. The effect of this was to restrict the scope of deputations to those reports on the agenda for decision.
- Public questions introduced. Limited take up.

## **Opportunities**

8. Note: If changes are to be made to council assembly it should be recognised that for each meeting there is only a limited amount of time. If seeking to add new things then the Commission needs to consider how to free up time by looking at everything it does, identify what it absolutely has to do, and propose alternatives e.g. one option might be to adopt a more minimalist version on decision making leaving time to add more engaging items.
  - Reduce current activities
    - Use scrutiny more for holding cabinet to account rather than questions to council assembly
  - New powers / activities
    - Increase amount of decisions Council Assembly can take (in “strong leader” executive arrangements this is more limited to policy framework issues). Guidance says that council can specify certain other plans or strategies (statutory or non- statutory) for adoption or approval which are non executive functions.
    - Allow written and/or verbal questions
    - Allow more follow-ups to questions
  - Move council assembly around the borough. This is likely to be expensive based on costing for other meetings such as community councils e.g. venue availability, venue costs, sound system, security, support costs etc
  - Webcasting/broadcasting: Some initial work has been done on costs and benefits
  - Dedicate selected meetings to public involvement making them less formal with less deputations and more public questions
  - Council assembly as a forum at which all members of the council discuss and decide the local authority’s policy framework and budget. Guidance suggested that local authorities might wish to consider how the role of the meeting in policy determination could be enhanced by considering such things as: the frequency of meetings i.e. so more frequent at some times of the year and less frequent at others; structure and style of meetings to allow for debate on the policy framework, perhaps at more than one stage of the policy development process, including how proposals are presented; how public participation in council meetings can be encouraged.

## **Constraints**

9. Constraints include:

- By law decisions are taken based on reports circulated in advance of the meeting. The notice period is currently 7 clear working days. All decision making must be evidence based and supported by officer reports. (Member and Officer Protocol).
- It could be argued that there needs to be time for councillors to consider evidence, whips to influence and officers to advise prior to the meeting where decisions are taken.
- Most decisions are 'strongly whipped'
- Competing demands on Council Assembly time: if more time is spent on involving the public this will mean either less time on current business or overall time will have to increase
- Council Assembly is very expensive – appropriately £2,500 per meeting.

Note:

- Not all subjects lend themselves to scrutiny-style debate – some are too complex with too many viewpoints that would need to be represented e.g. Soutwark Plan or Licensing policy where there are many respoodees to extensive public consultation exercises.

**Public participation, Incentives and Obstacles**

10. Current forms of public participation include:

- Petitions: new rules from central government set out where and when a petition is heard by the council i.e. depending on the number of signatories it will have to be heard either by a community council, the council assembly or the cabinet. In general the new rules are quite prescriptive but there are some changeable elements e.g. thresholds set for number of signatures.
- Deputations:
  - only allowed if there is a relevant report on the agenda to be decided on at that session (otherwise the deputation are advised to submit a request to a community council or cabinet)
  - strict time rules: 5 minutes speaking, 5 minutes for questions
- Public questions

11. Current incentives for people to attend Council Assembly:

- Belief that talking to all councillors will have more impact than to only a few i.e. community council or cabinet

12. Obstacles to public participation:

- People don't believe they can have an impact on decisions or policy through Council Assembly or they do not know how to use it to have an impact
- Size of the meeting (in general bigger meetings require more rules and formality to function effectively and tend towards having polarised format e.g. speakers versus audience)
- Little scope for public participation as its current functions require the main participants to be the councillors
- The existence of other more relevant decision making forums e.g. community councils, planning committees

- Physical requirements of the meeting (need for large room with good sound system, access to administration support e.g. photocopiers etc)
- Physical set-up of the chamber including set up of the balcony (small capacity, obstructions, etc)

**Author: Sharon Beckwith (written in consultation with Ian Millichap, Constitutional Manager, Democratic Services, Southwark Council)**