

<b>Item No.</b> 6.1	<b>Classification:</b> Open	<b>Date:</b> 20 October 2010	<b>Meeting Name:</b> Council Assembly
<b>Report title:</b>		Report of Stage 1 of the Democracy Commission	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Strategic Director of Communities, Law & Governance	

### **RECOMMENDATIONS**

1. That Council Assembly notes the report of the Democracy Commission.
2. That Council Assembly notes the report of the cabinet.
3. That Council Assembly agrees the recommendations of the Democracy Commission.
4. That Council Assembly tasks the cabinet with producing an implementation plan that fully considers the resource implications of the commissions recommendations

### **BACKGROUND INFORMATION**

5. The Council Assembly at its meeting on 19 May 2010 agreed that the cabinet be tasked with establishing a democracy commission with the following aims:
  - To consider the avenues of democratic engagement with the council for local residents.
  - Specifically to fully review how council assembly can be changed to increase democratic engagement with local people.
6. On 15 June 2010 the cabinet agreed to establish a democracy commission with the following key recommendations :
  - Consider changes to the council's constitution to make the council's democratic functions more open and engaging.
  - Be focused and task-based to increase its ability to deliver recommendations for substantive change and so that it can be delivered within existing budgets.
  - That the first task should be to consider reforms to Council Assembly,
7. After considering the evidence the main areas that the commission has made recommendations on are:
  - The content and format of council assembly meetings to ensure that they are more relevant to residents concerns; more clearly demonstrate the council's

community leadership role and strengthen the role of members and residents in holding the Administration to account.

- The establishment of a Council Assembly Business Panel to improve how agendas are planned.
  - How the residents, the community and members can more easily bring topical issues to assembly meetings by making it easier to bring deputations and petitions and through strengthening links with community councils.
  - The concept of themed meetings and debates to inform plans, priorities and strategies at an early stage.
  - Plans to involve the community and residents in themed debate by holding early discussions in community councils and other fora prior to council assembly.
  - Making better use of new technology and established communication channels, including local media, to engage and communicate with residents and illicit opinion and questions on debates held at Council Assembly on themes and plans.
  - Improving how outcomes of debates and decisions at council assembly are communicated to residents and other stakeholders.
  - The location and timing of meetings.
8. Cabinet on 19 October 2010 is due to consider the report of the Democracy Commission. The cabinet is invited to agree the recommendations of the Democracy Commission set out at appendix 4 of this report. The decision of cabinet will be reported to council assembly.

## **KEY ISSUES FOR CONSIDERATION**

### **Policy implications**

9. A number of constitutional changes may arise from these recommendations and will require changes to the council's constitution which will need to be considered by the Constitutional Steering Panel and agreed by council assembly. The key changes proposed are set out in appendix 4: *Democracy Commission recommendations*. Appendix 3 *The Legal Framework* and paragraphs 26 – 34 note the legal advice and constitutional implications of agreeing the recommendations of the commission.
10. A key part of the recommendations are that the council assembly adopts themed debate and that there is public engagement prior to the assembly meeting in a variety of fora on these themes. Themed debates will be related to plans, strategies and policies that the council is developing (or refreshing existing one) and will be chosen to ensure that the council would find feedback, engagement and debate particularly useful. Engagement and debate would be led by the relevant cabinet member. The principles for choosing themed debate are set out under paragraph 8 of the democracy commission recommendations attached in appendix 4.

## **Community impact statement**

11. The work of the democracy commission has received significant feedback from the community which was engaged with the aim of increasing public involvement with the council and enhancing the community leadership role of the council. The work of the commission has included extensive public consultation and involvement as detailed in paragraph 16 of this report.
12. The commission carried out specific work to consider the different access and equality needs across the six strands of the council's equality agenda: age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Officers contacted members of the LGBT Forum, the Multi-faith Forum and BME groups to invite members to participate to in focus groups, complete questionnaires and attend events. At the conference there were focused cafe conversations seeking the communities views on 'involving older people'; 'increasing access for disabled people' & 'involving new & BME communities'. The Chairs of the Disability and Pensioners Forum were invited to attend and help facilitate these conversations. Each strand of the consultation work was monitored to measure which equality groups participated most in each engagement activity to help interpret the result, inform further work and gap analysis.
13. There will be an Equality Impact Statement carried out on the proposed recommendations, as well as the impact of keeping the status quo - with specific reference to the present council assembly venue and facilities.

## **Resource implications**

14. Officers will need to report back on resource implications once recommendations have been agreed by the Council Assembly. Some of the recommendations will be able to be implemented within existing resources; for example some of the constitutional changes; for others it is apparent the resource issue will be complex - officer time, changeable venues and significant Communications involvement. As noted below under paragraph 38 (reasons for lateness) this report informs the Office Accommodation Strategy. The resource impacts of ensuring appropriate provision of council meeting spaces will be considered holistically in this report.

## **Consultation**

15. The Commission started its work on 6 July with a meeting of commission members. This was followed by six meetings open to the public.
16. Alongside formal meetings and conferences the commission and supporting staff have:
  - Published information on the council website ([www.southwark.gov.uk/democracy](http://www.southwark.gov.uk/democracy)) and encouraged people to fill out an online questionnaire.
  - Sent information by post and email to around 2,000 people that invited them to complete a paper questionnaire.
  - Analyzed the 262 questionnaires returned.
  - Held two focus groups with members of the public on Council Assembly. Members of the public viewed the 14 July Assembly meeting and then gave their comments on how public participation could be improved via two recorded discussions and written questionnaires.

- Conducted a questionnaire with Members and held two focus groups with Members in August.
  - Held a focus group with community leaders from the voluntary sector.
  - Recorded vox pops of the public out and about in Southwark. Around 100 voices of elected members, residents, and community leaders have been recorded so far (including recorded focus groups).
  - Held a conference attended by around 120 people with speakers from the Young Foundation and Birmingham University, a panel discussion, workshops and 'cafe conversations'.
17. Residents and the community will receive a copy of the final report.
  18. The cabinet member for equalities and community engagement, Councillor Abdul Mohamed, made the following comments in the cabinet report:
  19. "I believe the state of democracy in our borough has been getting increasingly stale and ineffective from a combination of changes by the previous administration and general sidelining of the full council meetings as decision making body by the Local Government Act 2000.
  20. "We pledged to set up a democracy commission to make a change and invigorate the state and relevance of the council for local people.
  21. "We start from this pledge of bringing the council closer to its residents, making it more accountable to them and more connected with their concerns. This report which has been the culmination of several months work by the democracy commission outlines the recommendations as proposed unanimously by the commission. These recommendations if implemented as proposed will bring the council closer to this aim.
  22. "The cabinet would require that the council receives maximum benefit from the expenditure on Council Assembly by having better and effective debates and better decision making on behalf of the citizens of our borough. And these proposals have these objectives as an aim which will be subject to review on their effectiveness once implemented.
  23. "The cabinet is also concerned that these changes are as cost effective as possible, and therefore I recommend that an implementation plan and recourses implications are brought to a future cabinet meeting for consideration.
  24. "This report recommends that the officers working on the current accommodation strategy explore suitable alternative venues for housing Council Assembly through out the borough and report these back to cabinet with costing for all alternatives including the current council chamber.
  25. "These proposals are far reaching and move us closer to our goal of having more participation and relevance to local people's concerns."

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Communities, Law & Governance**

26. The Local Government Act 1972 ('the 1972 Act') established the system whereby councillors directed the business of a local authority through the council itself and

through committees and sub-committees. The Local Government Act 2000 ('the 2000 Act') significantly changed how a principal authority conducts its business by requiring (with a small number of exceptions) all such authorities to adopt "executive arrangements" in one of three forms:

- Mayor and Cabinet Executive
- Leader and Cabinet Executive
- Mayor and Cabinet Manager (no longer an option)

In conjunction with local government executives the 2000 Act also established Overview and Scrutiny Committees ('OSC') which provide a check on the role of the executive.

27. The Local Government and Public Involvement in Health Act 2007 made further changes to "executive arrangements" with the move to the Strong Leader Model. This is the model which Southwark currently has in place whereby the Leader appoints the members of the executive (Cabinet) and allocates decision-making powers to the Cabinet and individual Cabinet Members.
28. Part II of the 2000 Act provides for the discharge of a local authority's functions by an executive of the authority, unless those functions are specified as functions that are not to be the responsibility of the authority's executive. Under section 13 (3) of the 2000 Act the Secretary of State was empowered to make provision for those functions that are not to be the responsibility of the authority's executive. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ('the 2000 Regulations') were the detailed regulations made under section 13 and they divide functions into three categories:
  - Functions which are not to be the responsibility of an authority's executive (i.e. functions which the executive can not exercise). These functions are for the most part exercised either by council assembly or one of the regulatory committees such as the planning and licensing committees.
  - Functions which may be the responsibility of an authority's executive (i.e. functions which can, but do not need to be exercised by it).
  - Functions which are not to be the sole responsibility of an authority's executive (i.e. functions which may be exercised by the executive subject to the limitations set out in the regulations).
29. Section 13(2) of the 2000 Act makes it clear that any function which is not specified in the regulations (which are the majority of functions) are the responsibility of the executive.
30. The effect of both the 2000 Act and the 2000 Regulations is that the majority of functions are the responsibility of the Cabinet and those functions can not be devolved to Council Assembly. This means that Council Assembly cannot make decisions on "executive functions" (such as housing, social services, regeneration, environment and education). Only the Leader, or the Cabinet, a member of the Cabinet, a community council or an officer exercising delegated authority from the Leader can take these decisions. If Council Assembly considers an "executive function" any decision it takes must be referred as a recommendation to the Cabinet. Equally the legislative provisions mean that certain decisions (e.g. setting the level of council tax) must be taken by council assembly. Any recommendations by the Democracy Commission in relation to changes in the decision making body for a particular decision/function must comply with the requirements in the 2000

Act and 2000 Regulations and the Commission has been provided with appropriate advice. A plain English version of this advice is attached as Appendix 3 to this report: The Legal Framework. This document is an extract and summary of advice given to the commission during the course of its deliberations.

31. 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. Any additional plans, policies or strategies to be considered by council assembly would require an amendment to the relevant parts of the constitution and would have to comply with the 2000 Act and 2000 Regulations.
32. Changes to the petition threshold, increasing the number of deputations and the establishment of a Council Assembly Business Panel ('CABP') will require amendments to the council's petition scheme as well as the council assembly procedure rules and Part 3 of the Constitution respectively. With regard to recommendations 4.2 and 4.3 members are reminded that if OSC or the CABP recommend that additional plans, policies or strategies be considered by Council Assembly as part of the policy framework this will require a constitutional amendment which will first need to be considered by the Constitutional Steering Panel ('CSP') as confirmed below.
33. It will need to be ensured that the proposed relaxation of recording/reporting of Council Assembly proceedings complies with the requirements set out in section 100A of the 1972 Act which states:

*100A. — Admission to meetings of principal councils.*

*(7) Nothing in this section shall require a principal council to permit the taking of photographs of any proceedings, or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later), or the making of any oral report on any proceedings as they take place.*

This raises the issue of how and to what extent the Mayor will give consent to the recording/reporting of proceedings as well as whether the consent of members of the public who speak at council assembly ought to be sought. A full legal briefing on the implications will need to be provided once proposals have been finalised.

34. CSP is comprised of the political group whips of each party represented on the council together with one further nominated member of the administration. Part 30 of the constitution sets out the functions of the CSP as follows:
  1. To oversee, review and recommend amendments to the constitution.
  2. To make recommendations to council assembly for the award of the Honorary Freedom of the Borough and Honorary Alderman.
  3. To recommend changes to the members' allowances scheme.

Any such recommendations must be referred to council assembly for consideration.

In the circumstances all Democracy Commission recommendations which require an amendment to the constitution will need to be overseen and reviewed by CSP. In addition any subsequent recommendation made by CSP must then be referred to council assembly for consideration.

### **Finance Director**

35. This report presents a number of recommendations for changes to the functioning of the Council Assembly and how the public interact with the decision-making body. Several proposed options have resource implications which have yet to be quantified so prior to such options being agreed a full evaluation process will be required, particularly relating to the locations and the timings of meetings.
36. This evaluation process should be performed within the context of the council's overall budgetary situation and paragraph 14 notes the need to present a report to Cabinet on these specific resourcing issues. This future report should form the basis for any decision-making where additional resources are required.

### **REASONS FOR URGENCY**

37. It was not possible to circulate this report five clear days in advance of the meeting. The decision cannot wait until the next meeting of cabinet due to take place on 2 November. The cabinet is due to consider a report on the councils' future accommodation strategy in November and this item will need to be informed by decisions made by the democracy commission that have a bearing on future accommodation requirements.

### **REASONS FOR LATENESS**

38. The last meeting of the commission could not take place until 8 October 2010 and followed an extremely tight deadline, assimilating evidence from a variety of external sources meaning that it has not been possible to circulate this report five clear days in advance of the meeting.

### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Cabinet report and minutes	Tooley Street, London SE1 2TZ	Paula Thornton 020 7525 4395
Democracy Commission reports and agenda	Tooley Street, London SE1 2TZ	Julie Timbrell 020 7525 0514

### **APPENDICES**

<b>No.</b>	<b>Title</b>
Appendix 1	Terms of reference of the Democracy Commission
Appendix 2	Southwark Democracy Commission draft report: considering the evidence.
Appendix 3	The Legal Framework
Appendix 4	Democracy Commission Recommendations

## AUDIT TRAIL

<b>Lead Officer</b>	Deborah Collins, Strategic Director of Communities, Law & Governance	
<b>Report Author</b>	Stephen Douglass, Head of Community Engagement	
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<b>Dated</b>	14 October 2010	
<b>Key Decision?</b>	Yes	
<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
Finance Director	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	14 October 2010	