

Item No. 3.2	Classification: Open	Date: 22 May 2013	Meeting Name: Council Assembly (Annual Meeting)
Report title:		Establishment of Committees, Community Councils, Panels and Related Matters – 2013/14	
Ward(s) or groups affected:		All	
From:		Proper Constitutional Officer	

RECOMMENDATIONS

1. That council assembly notes the appointment of political group leaders, deputies and whips (see Appendix 1).
2. That council assembly establishes the following meetings and appoints chairs and vice-chairs for the coming municipal year 2013/14:

Ordinary Committees: 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
Total	37	21	14	2

Other committees: Total number of seats 29

Committee	Total	Lab	Lib Dem	Con
Overview and scrutiny Committee	11	6	4	1
Licensing Committee	15	8	6	1
Health and Wellbeing Board	3	3	Nil	Nil
Total	29	17	10	2

Community councils:

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

Note: Membership as set out in Article 5 of the constitution.

Appointment of chairs and vice chairs

3. 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
- Health and wellbeing Board

Community councils

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

*Notes: * In 2012/13 the cabinet member responsible for children's services chaired the corporate parenting committee. Council assembly is asked to formally approve this appointment in 2013/14.*

All outstanding appointments will be referred to the first meeting of the respective committee or community council in the 2013/14 municipal year.

Establishment of the council's panels

4. That council assembly establishes the following council panels (see paragraph X and Appendix 4):

Panels: Total number of seats 16

Committee	Total	Lab	Lib Dem	Con
Council assembly business panel	4	2	1	1
Constitutional steering panel	4	2	1	1
Pensions advisory panel	3	1	1	1
Voluntary bodies appointment panel	5	3	2	Nil
Total	16	8	5	3

- **Council assembly business panel** – That council assembly agrees to establish a council assembly business panel comprised of the Mayor, the majority group whip and the political whips of the other groups represented on the council.

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 majority group and the political whips of the other groups represented on the council. Council assembly is also invited to appoint a chair of the 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 accordance with current practice the recommendation clarifies that groups can nominate a reserve to attend in the absence of a representative.

- **Pensions advisory panel** – That council assembly agrees to establish a pensions advisory panel comprised of 3 members (one from each political group of the council), officers, independent advisors and a trade union representative.

The purpose of the panel is to advise the advice to the strategic director of finance and corporate services when performing functions relating to the council's pension scheme.

- **Voluntary bodies appointment panel** – That council assembly agrees to establish a voluntary bodies appointment panel with 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.

Appointments to Local Government Association General Assembly

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

Other appointments to joint committees/outside bodies

6. 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

7. 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

8. 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

9. The size and composition of the council's regulatory and other committees are established in accordance with the number of seats each political group has on the council as a whole – this is known as "proportionality".
10. 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.
11. 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 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, the overview and scrutiny committee is appointed under section 21 of the Local Government Act 2000 and the health and wellbeing committee is appointed under the Health and Social Care Act 2012 and is to be treated as if appointed under section 102 of the Local Government Act 1972. None of the committees are 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

12. 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.

13. 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 2013/14. The table set out in recommendation 2 is based on the assumption that the same committees are established in 2013/14 as existed in 2012/13.

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

Appointments to seats

15. 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”.
16. 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.

Ordinary committees

17. The size and composition of the council’s regulatory and other committees known as “ordinary committees” is set out above in recommendation 2. 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.
18. 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.
19. At least one member of the cabinet shall serve on the appointments committee.
20. 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.
21. 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 2012/13 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.

Standards committee

22. The Localism Act 2011 (“the Act”), 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.

23. 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. Therefore in May 2012, council assembly decided to establish a standards committee.
24. From 1 July 2012 the new standards committee structure took effect with a councillor appointed as chair. The annual meeting in May 2012 established a standards committee for 2012/13 comprised of nine councillors, with seats allocated to political groups as follows:
- Labour 5 places
 - Liberal Democrat 3 places
 - Conservatives 1 place.
25. 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.
26. As an "ordinary committee" the standards committee is 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. In May 2012 officers recommended 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 was necessary in ensuring that all political groups were represented on the committee. By comparison a smaller committee of seven members would have meant only the majority group and the largest opposition group would have seats.
27. A summary of the role and function of the committee is set out in the Appendix 2.

Audit and governance committee

28. In 2012/13 in order to ensure the audit and governance committee included at least one member of each political group, council assembly established a committee comprising seven councillors.
29. 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

30. 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.
31. Council assembly can agree an allocation that is disproportionate, provided no member votes against this.
32. The 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 2012/13 council assembly constituted a committee of this size and allocation of seats
33. 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.
34. No member of the cabinet shall serve on any scrutiny committee.

Health and Wellbeing Board

35. The regulations¹ relating to the health and wellbeing board makes provision for the disapplication and modification of certain enactments relating to local authority committees appointed under section 102 of the Local Government Act 1972, insofar as they are applicable to a health and wellbeing board established under section 194 of the Health and Social Care Act 2012. The regulations aim to provide local areas with the flexibility and freedom to shape their health and wellbeing board as best fits with local circumstances. In particular:
 - health and wellbeing board will be free to establish sub-committees and delegate functions to them;
 - voting restrictions have been lifted so that non-elected members of a health and wellbeing board (i.e. CCG representative, local Healthwatch, Directors of Public Health, Children’s Services and Adult Social Services and any wider members) could vote alongside nominated elected representatives on the committee.
 - political proportionality requirements have also been lifted so that the question of political proportionality of health and wellbeing board membership is left to local determination.

¹ *The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 No. 218*

36. The Health and Social Care Act 2012 enables the local authority to arrange for any of its functions to be exercised by the board should it so wish. The board will not have the power to perform any of the functions given to the health overview and scrutiny committee, and it will itself be subject to overview and scrutiny as a committee of the council. In addition members of scrutiny committees should not be members of the health and wellbeing board as this may create a conflict of interests.
37. It will be for the leader of the council under the 'Strong Leader' model to decide, based on the work of the committee through its first year of operation, whether any executive functions should be delegated to the board. Until such a decision is taken, the board will operate in accordance within the council's existing decision-making framework and normal council budget setting processes.
38. The secondary legislation provides no prescription regarding political proportionality for the health and wellbeing board. The cabinet recommended that this be reflected in Southwark with no stipulation regarding the political proportionality of the membership of the board. It was noted at constitutional steering panel that the issue of membership and representation from other political groups was an issue that could be considered by the board and the council in the future.
39. Beyond the technical governance and constitutional arrangements, there is a need to set out the way that the board will operate on a practical level. It is for each health and wellbeing board to determine how their decisions are made. The board will collectively take decisions via consensus, although provision for a vote is included should one be required.
40. Health and wellbeing board must include six statutory members which are:
 - at least one councillor, who will be (or be nominated by) the Leader
 - the director of adult social services of the local authority
 - the director of children's services of the local authority
 - the director of public health of the local authority
 - a representative of Local HealthWatch
 - a representative of the Clinical Commissioning Group.
41. The primary legislation states that beyond the statutory members, the board can also include *(g) such other persons, or representatives of such other persons, as the local authority thinks appropriate*. The board once constituted will have the power to appoint additional members as it sees fit. The local authority may also appoint such additional members as it sees fit (in consultation with the board if an appointment is made after the establishment of the board).
42. On 27 March 2013 council assembly agreed the membership of the health and wellbeing board as follows:
 - The Leader of Southwark Council
 - The Cabinet Member for Health and Adult Social Care
 - The Cabinet Member for Children's Services
 - The Chief Executive of the Council
 - The Strategic Director of Children's and Adults' Services
 - The Director of Public Health
 - Three representatives from the Clinical Commissioning Group
 - A representative of Southwark HealthWatch

- A representative from King's Health Partners
- Southwark Borough Commander, Metropolitan Police Service
- The Chief Executive of Community Action Southwark

The membership was agreed for a fixed-term until the annual meeting of council assembly in 2014; thereafter it will be reviewed annually at the annual meeting of council assembly from 2014 onwards. This will allow the membership to stay relevant to the work that the board chooses to focus on.

43. All members of the health and wellbeing board are subject to Southwark's Code of Conduct for elected members when acting as a member of the board and will be subject to declarations of disclosable pecuniary interests. As a consequence it is recommended that substitutes should not be permitted at meetings of the committee from 1 April 2013.

Community councils

44. 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 council fund, traffic management and agreeing schemes for the community infrastructure levy project bank. Community councils also offer an important mechanism for formal consultation on council wide policies and strategies.
45. Following the decision on the budget by council assembly in February 2012 there are 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

46. 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 2013/14. Community councils meet in local venues around the borough.

Licensing committee

47. 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.
48. 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 2012/13, agreed the following allocation of seats: eight Labour, six Liberal Democrat and one Conservative.
49. The Licensing Act 2003 makes no provision to appoint reserve members.
50. In accordance with the constitution, 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 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

51. 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.
52. 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.

Reserve members

53. 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, the health and wellbeing board or community councils.
54. 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.
55. 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

56. 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 2012/13 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 3 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 2012/13 the panel of five members, which was established by council assembly, comprised three Labour and two Liberal Democrat.

Council assembly dates

57. A calendar of council assembly meetings for the 2013/14 municipal year was agreed at council assembly on 23 January 2013. This meeting agreed the council assembly dates, in accordance with the relevant statutory provision.

Appointments to Local Government Association (LGA) General Assembly

58. In 2012 council assembly appointed two representatives to the Local Government Association (LGA) General Assembly and allocated 5 votes amongst the two representatives. Councillors Peter John (3 votes) and Anood Al-Samerai (2 vote) were appointed. In 2013 council assembly is asked to appoint up to three representatives and allocate 5 votes (see Appendix 6). The LGA encourages local authorities with three or four representatives to allocate at least one position and vote to a minority group representative.

Appointments to outside bodies and joint committees

59. 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.
60. 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 31 May 2013 council assembly is asked to agree the nominations for the year 2013/14 (see separate report).

Urgency committee

61. 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 code of conduct 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 2012/13 Council Assembly May 2012 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 2013/14
Appendix 3	Overview and Scrutiny Committee and Community Council - Appointments 2013/14
Appendix 4	Panels - Appointments 2013/14
Appendix 5	Appointments to LGA General Assembly

AUDIT TRAIL

Lead Officer	Alexa Coates, Principal Constitutional Officer	
Report Author	Lesley John, Constitutional Officer	
Version	Final	
Dated	7 May 2013	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Legal Services	Yes	Yes (included in body of report)
Strategic Director of Finance and Corporate Services	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team		7 May 2013