

Item No. 7.2	Classification: Open	Date: 26 March 2014	Meeting Name: Council Assembly
Report title:		Constitutional Changes – Urgency Arrangements between a Municipal Elections and Annual Council Assembly and Annual Meeting in 2014	
Ward(s) or groups affected:		All	
From:		Proper Constitutional Officer	

RECOMMENDATIONS

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

Urgency arrangements between the elections and annual meeting 2014

1. That the changes identified in paragraphs 9 – 15 and amendments in Appendix A to the urgency arrangements during the interim period between a municipal election and annual council assembly be agreed. These arrangements will apply until the annual meeting (constitutional meeting) on Wednesday 11 June 2014.

Annual meeting in 2014

2. That the amendment to the notice period for the annual meeting (mayor-making and constitutional meetings) to allow it to held as soon as reasonably possible following the municipal elections (see amendment in paragraph 22; background information in paragraphs 16 – 23), be agreed.

BACKGROUND INFORMATION

Leader of the council

3. The current constitution (Article 6.3) follows the Local Government Act 2000 (as amended by Local Government and Public Involvement in Health Act 2007) which prescribes the leader's term of office where a council has all-out elections (section 44D LGA 2000) – i.e. the leader's term of office ends at the start of the post-election annual meeting which follows his election as leader. In other words, for councils like Southwark which have all-out elections, the term of office is four years. The constitution also states in Article 6.3(c) that the leader shall hold office until he is no longer a councillor or in Article 6.3(a) he resigns from office. This means that in the period after a borough-wide election the leader shall remain in office so long as he is re-elected, or does not stand down as leader or a councillor.

Urgency committee arrangements in 2010

4. In 2010 the urgency committee, together with planning, licensing and standards sub-committees, functioned during an interim period between a municipal election and the annual meeting of council assembly. The urgency committees

could exercise all the functions of the council, other than those reserved by law to council assembly for decision, in cases where in the opinion of the chief executive it was necessary to act urgently. In 2010 neither the urgency committee nor any of its sub-committees met to consider any business. In the past the urgency committee has normally only met to consider contract related issues that are time sensitive and cannot wait for the annual meeting to establish the decision making arrangements.

5. Following elections in 2010, the council introduced strong leader executive arrangements and appointed a leader of the council for a period of four years. The leader is responsible for all executive function decision making within the council, and at each annual meeting sets out his scheme of delegation to cabinet, individual cabinet members and officers.

Changes for council elections in 2014

6. Following the borough-wide election in 2014, the term of office of cabinet members will cease so any cabinet and individual cabinet member decision making will automatically revert to the leader. In line with the constitution, the current leader's term of office runs to the annual meeting in 2014, which will appoint a new leader.
7. Because the current leader (if personally re-elected to his seat) will remain in post following the council elections, the previous urgency committee arrangements require review to bring the provisions up to date. This has been regularly reported to previous annual meetings, including the last annual meeting on 22 May 2013. Officers undertook to review the arrangements and report to the constitutional steering panel with future proposals prior to the next borough wide elections in 2014. Paragraphs 9 to 15 and Appendix A set out the proposed changes.

Advice on constitutional changes

8. All constitutional changes are considered by the 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.

Changes to the constitution are shown as follows:

- Additions (shown as underlined)
- Deletions (shown with a ~~strikethrough~~).

KEY ISSUES FOR CONSIDERATION

Urgency arrangements for 2014

9. The following arrangements will only apply to those functions 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. This is the same as the urgency arrangement that applied in 2010.
10. The urgency arrangements during an interim period between a municipal election and annual meeting have been reviewed to reflect the provisions of the current

strong leader arrangements. These arrangements will apply until the annual meeting (constitutional meeting) which council assembly on 26 February 2014 confirmed will be held on Wednesday 11 June 2014. The detailed changes to the constitution are set out in Appendix A and summarised below:

11. Executive arrangements – Executive decisions will be exercised by the leader (if personally re-elected or his nominee, a relevant cabinet member). If the leader is not re-elected, then any executive decisions will be dealt with by the urgency committee (see paragraph 13 below). If the leader (or relevant cabinet member) is required to take an executive decision, because the normal scrutiny arrangements will not have been established by the annual meeting, it is proposed executive decisions will be treated in a similar way to urgent implementation decisions or an urgent decision outside the budget and policy framework. Normally this would mean before a proposed decision can be implemented agreement is obtained from the chair of the overview and scrutiny committee that the decision is a matter of urgency, i.e. the decision cannot be reasonably deferred. In the period after the election it is proposed that agreement should be sought from the leader of the other largest political group (or their nominee) or, if unable to act, the outgoing Mayor. In a post-election situation where the need for urgency might be paramount then approaching a named post holder will allow more accountable and efficient decision making.¹
12. Any consideration of a request for an urgent decision would be in the form of a report including advice of the relevant chief officer, monitoring officer and chief finance officer. If the member considering the urgent request was minded to refuse a request the constitution would oblige them to seek advice from the monitoring officer and chief finance officer on the impact of any refusal and to provide written reasons based on the principles of decision making set out in the constitution.² This is set out in Appendix 1.
13. Urgency committee – If the leader is re-elected the urgency committee will deal with non-executive functions only that are not reserved by law to council assembly, and are not planning or licensing applications. It is considered prudent from a constitutional perspective that such a committee exists, although at this stage it is envisaged that non-executive decision making opportunities (which are not planning or licensing) might be limited. In the event the leader is not re-elected or is unable to act, the urgency committee will also exercise executive functions. The existing urgency committee arrangements and composition are unchanged.
14. Planning and licensing – The existing arrangements for a planning (urgency) sub-committee and a licensing (urgency) sub-committee will be retained. Each licensing (urgency) sub-committee convened to hear an urgent application will comprise of three licensing members who will be selected using the current procedure from the pool of re-elected councillors who previously served on the licensing committee.

¹ This is a variation from the existing urgent implementation provisions (access to information procedure rule 19) which state that “if there is no chair or if the chair is unable to act, then agreement of the vice-chair or in his/her absence any two members of the overview and scrutiny committee shall suffice...the whips of the two largest political parties shall nominate one member each.” See also budget and policy framework rule 4.

² Article 1.3 and overview and scrutiny procedure rule 21.2

15. Standards sub-committee – The standards urgency sub-committee is no longer required as the old arrangements for dealing with complaints against councillors were amended in 2012, following the Localism Act 2011. The previous system required complaints to be assessed by a committee of members within a certain timescale, which no longer applies.

Notice of annual meeting after 2014 elections

16. On 22 May 2014 the borough-wide local elections and European elections will be held on the same day. The returning officer has indicated that the validation process for both elections will be held on the Thursday evening and the local election count will be held on Friday 23 May 2014. The count for the European elections will be held on Sunday 25 May 2014. A similar situation occurred in 2010 when parliamentary and local elections were held on the same day; as a result the count for the local elections commenced on the Friday following election day.
17. The annual council (mayor making) is scheduled for Saturday 7 June 2014, with the annual council (constitutional) scheduled for Wednesday 11 June 2014. The mayor making will be held jointly with the Civic Association's Civic Awards ceremony at Southwark Cathedral. In accordance with council assembly procedure rule 1.1 (1) (set out below), the summons for the meeting must be despatched seven clear working days in advance of the meeting, normally this would be Wednesday 28 May 2014. However with a bank holiday on Monday 26 May 2014, it would not be possible to complete all the administrative arrangements prior to the normal despatch date.
18. The current council assembly procedure rule 1.1 (1) states:

The chief executive will give notice to the public of the time and place of any meeting in accordance with the access to information rules. At least seven clear working days before the meeting, the chief executive will send a summons signed by him or her by post to all members of the council or leave it at their usual place of residence.'
19. Following the announcement of the local election results officers need to prepare agenda documentation, update systems and the membership lists of the council used by the post room to establish the members' drop. These processes might not be complete until Friday 30 May 2014, which would be after the deadline for despatch of the annual council agenda.
20. It is therefore suggested that council assembly despatch be reduced to five clear working days for both parts of the annual meeting. This constitutional change would not necessitate a reprinting of the constitution.
21. The council is responsible for approving its procedures for conduct of meetings. It has been customary for Southwark to summons meetings of council assembly seven clear working days in advance of the meeting. However, schedule 12 of the Local Government Act 1972 allows for less than the seven clear working days for the public notice of meetings of a principal council (and of its committees and sub-committees).
22. The constitutional steering panel asked to recommend that council assembly adopts the following change to the constitution:

Elections: Council Assembly Procedure Rules

Add new rule 1.1 (1b) to read:

'In the event that either parliamentary or European or London wide elections and local elections are held on the same day, the chief executive will give notice to the public of the time and place of any meeting in accordance with the access to information rules. At least five clear working days before the meeting, the chief executive will send a summons signed by him or her by post to all members of the council or leave it at their usual place of residence.'

Renumber the existing rule 1.1 (1) as 1.1 (1a).

23. The change will be applied to the annual meeting in any future year when either parliamentary or European or London wide elections and local elections are held on the same day.

Community impact statement

24. 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. Notice of any meetings, agenda and decisions will be published on the council's website, subject to the restrictions on publication including the exemptions as set out in the access to information procedure rules or issues of confidentiality. Any specific issues relevant to each constitutional change are set out in the relevant section of this report.

Resource implications

25. The budget for 2013/14 was set on 27 February 2013 and any changes to the constitution must be contained within the budget.
26. 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.

Legal implications

27. Section 26 of the LGA 1972 says: "On the fourth day after any such ordinary election – (a) the persons who were councillors immediately before the election shall retire; and (b) the newly elected councillors shall assume office."
28. This means that existing councillors will continue to serve until the fourth day after the election, when their term of office, basic allowance and any associated special responsibility allowances (SRAs) to committee chairs, cabinet members and other positions would cease until appointments are made either by the leader where he/she has the power or at the annual meeting. In the case of the leader and the Mayor their SRAs continue until the annual meeting in line with the council's constitution. In the case of current cabinet members (if re-

elected), the leader may use his strong leader authority to delegate executive functions to re-appoint them on the fifth day after the election as cabinet members.

29. Other legal implications are incorporated into the body of this report.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Southwark Constitution http://www.southwark.gov.uk/info/10058/about_southwark_council/375/councils_constitution	160 Tooley Street, London SE1 2QH	Constitutional Team constitutional.team@southwark.gov.uk 020 7525 7228

APPENDICES

Appendix	Title
Appendix 1	Proposed changes to Urgency Arrangements for 2014

AUDIT TRAIL

Lead Officer	Graeme Gordon, Director of Corporate Strategy	
Report Author	Ian Millichap, Constitutional Manager	
Version	Final	
Dated	13 March 2014	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Legal Services	Yes	Incorporated in the report
Strategic Director of Finance and Corporate Strategy	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team	13 March 2014	