

Item No. 7.	Classification: Open	Date: 26 November 2014	Meeting Name: Constitutional Steering Panel
Report title:		Constitutional Issues 2014/15	
Ward(s) or groups affected:		All	
From:		Proper Constitutional Officer	

RECOMMENDATIONS

That council assembly considers the recommendations of the constitutional steering panel set out in this report.

Council assembly - Date of the 2015 annual meeting and notice period

1. That the date of the annual meeting be changed to Saturday 16 May 2015 and that it be held jointly with the Civic Association's Civic Awards ceremony at Southwark Cathedral.
2. That the notice period for the annual meeting (mayor-making and constitutional meetings) be amended to five clear working days notice (see amendment in paragraph 9).

Openness of Local Government Bodies Regulations 2014 - Filming and recording at council meetings

3. That the council assembly, cabinet, committees and community council procedure rule on filming and recording at council meetings be amended as identified in paragraph 18.

Communications Protocol

4. That council assembly agrees the attached communication protocol at Appendix A.

Consequential changes

5. That the proper constitutional officer be authorised to make any necessary consequential changes to the constitution as a result of the above.

BACKGROUND INFORMATION

6. 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. The constitutional steering panel considered the issues set out in this report on 5 November 2014.

KEY ISSUES FOR CONSIDERATION

Date of the 2015 annual meeting and notice period

7. The annual council (mayor making) meeting is currently scheduled for Wednesday 20 May 2015 and this was agreed by council assembly in February 2014. However, based on the success of last year's joint meeting with the Civic Association it is proposed that the 2015 mayor making/annual meeting be held jointly with the Civic Association's Civic Awards ceremony at Southwark Cathedral on Saturday 16 May 2015. Council assembly dates are set by council assembly, therefore the constitutional steering panel recommends this change to council assembly.
8. In accordance with council assembly procedure rule 1.1 (1) the summons must be dispatched seven clear working days in advance of the meeting. In recent years council assembly has approved one off changes to the notice period for the annual meeting to allow the summons to be issued in less time in election years. On 26 March 2014 council assembly agreed a new procedure rule to allow for a five day dispatch in the event that either parliamentary or European or London wide elections and local elections are held on the same day. However this only allows for a five day dispatch if two elections are held on the same day rather than a single election.
9. The timing of the general election 2015 requires a further change so the summons for the annual meeting can be issued outside of the pre-election period. The pre-election period for the parliamentary election runs from 30 March 2015 to 7 May 2015. A normal seven day dispatch would mean the summons is published on 6 May, the day before the general election. In order to rectify this anomaly officers suggest the following change to new rule 1.1(1b), which would allow a five day dispatch for all future annual meetings:

Rule 1.1 (1b) agreed by 26 March 2014 council assembly:

'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.'

Proposed amended rule 1.1 (1b) to read:

Annual meeting

'The chief executive will give notice to the public of the time and place of the annual meeting of council assembly 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.'

10. The change will be applied to the annual meeting in 2015 and onwards.
11. Schedule 12 of the Local Government Act 1972 (as amended) allows five clear working days for the public notice of meetings of a principal council (and of its committees and sub-committees).

Openness of Local Government Bodies Regulations 2014 - Filming and recording at council meetings

12. The constitutional steering panel meeting in September was informed that on 11 August 2014 all councillors were notified of a change arising from the Secretary of State's power to make regulations under the Local Audit and Accountability Act 2014, which came into force on 6 August 2014.
13. In summary, the regulations:
 - Allow the public to report on meetings of local government bodies, their committees and sub-committees, by filming, photographing, audio recording or any other means which is in line with the public's current right to report on meetings of a council's executive. This applies to the open part of the meeting.
 - Reinforce the fact that the public have the right to use social media to report on local government meetings, and may provide written commentaries during a meeting and oral commentaries outside it.
14. The council has taken a positive and welcoming approach to those members of the public or press who wish to exercise this new right to report on meetings. The council is obliged to offer reasonable facilities to those wishing to do so; so officers in constitutional and scrutiny teams will encourage people to contact us in advance if they have specific requirements e.g. filming. Much of this we do already. The procedural changes will affect all council meetings; strictly speaking to date the new regulations have meant it has been necessary to formally waive the relevant procedure rules to allow filming, recording and other journalism.
15. The regulations provide for certain circumstances under which the chair can intercede to stop reporting such as if the meeting is disturbed by the reporting or the proceedings are taking place in closed session. The circumstances in which this might occur could include:
 1. Public disturbance or suspension of the meeting (including any oral reporting or oral commentary as the meeting takes place)
 2. Exclusion of public and press being moved and supported
 3. The chair, on advice of the monitoring officer, considering that continued recording/photography/filming/webcasting might infringe the rights of any individual
 4. The chair, on advice of the monitoring officer, considering that a defamatory statement has been made.

16. Officers have advised that chairs make a short announcement at the beginning of their meetings to show the council is "device friendly", an example is set out below:

Please can you switch your mobile phone to silent whilst in the committee room. Members of the public are welcome to film, audio record, photograph, or tweet the public proceedings of the meeting. I'd ask you to please be considerate towards other people in the room and take care not to disturb the proceedings. The code for accessing the council's WIFI is --.

Members of this sub-committee will not access the internet, send or receive emails, texts, messages or tweets concerning the business of the sub-committee.

Note: The second paragraph above applies to licensing sub-committees and planning committees and sub-committees only.

17. Prior to the date the regulations came into effect, most council meetings only permitted photographing or filming of the proceedings at the discretion of the chair. There is a specific impact on community councils as they are not now able to vote on whether to allow filming etc, as under the new regulations the presumption is that this is allowed.
18. A proposed new procedure rule is shown below:

PROPOSED CHANGE TO PROCEDURE RULES – RECORDING OF MEETINGS

Revised procedure rule:

The council welcomes any ~~Audio recording, photographing or filming~~ of the proceedings of a meeting or use of social media by any member of the public, media or councillor* which shall be allowed, and reasonable provision for facilities to so do shall be provided. ~~Photographing or filming of the proceedings of a council meeting by any member of the public, media or councillor shall only take place with the prior agreement of the chair.~~ The chair will make an announcement at the beginning of the meeting, where appropriate ~~on any arrangement agreed.~~

Members of the public or media are encouraged to contact the relevant officer (i.e. proper constitutional officer or head of overview and scrutiny) in advance of the meeting should they have any specific requirements.

The chair has the discretion to terminate or suspend the recording or photograph or filming if, in the opinion of the chair, continuing to do so would prejudice the meeting. The circumstances in which termination or suspension might occur could include:

1. Public disturbance or suspension of the meeting (including any oral reporting or oral commentary as the meeting takes place)
2. Exclusion of public and press being moved and supported
3. The chair, on advice of the monitoring officer, considering that continued recording/photography/filming/webcasting might infringe the rights of any individual

4. The chair, on advice of the monitoring officer, considering that a defamatory statement has been made.

** = Note: In accordance with committee procedure rule 8 which applies to meetings of licensing sub-committees and planning committees and sub-committees determining any application, members of these committees will not access the internet, send or receive emails, texts, messages or tweets concerning the business of the meeting.*

Communication protocol

19. The communication protocol was introduced in May 2004.
20. In 2011 a revised Code of recommended practice on local authority publicity (“the Code”) came into force and the council reviewed the communications protocol to reflect the Code.
21. The amendment in paragraph 4 of the protocol is to update the protocol in line with the changes to legislation.
22. The amendment in paragraph 52 of the protocol is to make clear that the telephone number and email address issued to a member or group of members cannot be used in political publicity material. This follows complaints during the last election.
23. A marked up copy of the proposed communications protocol is attached as Appendix A. The changes are recommended by the constitutional steering panel. The standards committee also considered the changes on 5 November 2014 and had no further comments.

Advice on constitutional changes

24. 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~~).

Community impact statement

25. The openness regulations provide new rights for members of the public and press to report on council meetings, including filming, recording and use of social media.
26. A clear communication protocol is very important in aiding the decision-making process and helping to boost public confidence in the Council. A protocol that clearly defines responsibilities creates certainty, which in turn leads to better decision-making and a more satisfied customer.

Resource implications

27. There are no specific budget implications from the proposals set out in this report. The recommended changes can be maintained within existing resources.
28. The constitution is published on the council's website and is available for viewing online. Limited numbers of the constitution are 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. It is anticipated that the cost can be contained within existing budgets.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

29. Any legal issues are outlined in the body of the report.

BACKGROUND DOCUMENTS

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

APPENDICES

Appendix	Title
Appendix A	Communication protocol

AUDIT TRAIL

Lead Officer	Ian Millichap, Constitutional Manager	
Report Author	Lesley John, Principal Constitutional Officer	
Version	Final	
Dated	13 November 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 November 2014	