

Item No. 7.3	Classification: Open	Date: 8 July 2015	Meeting Name: Council Assembly
Report title:		Constitutional Issues 2015/16	
Ward(s) or groups affected:		All	
From:		Proper Constitutional Officer	

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

RECOMMENDATIONS

Late questions by group leaders

1. That the proposed change to council assembly procedure rule 2.8 in respect of urgent questions by group leaders as set out in Appendix A be agreed.

Changes to Statutory Dismissal Procedures for Heads of Paid Service, Monitoring Officers and Section 151 Officers

2. That the changes to the constitution in respect of the statutory dismissal procedures for heads of paid service, monitoring officers and Section 151 officers as attached as Appendix B, C and D to this report, be agreed.

Electronic summonses and agenda packs

3. That the current uptake figures of electronic summonses be noted, and that option 2 set out in paragraph 36 of this report for taking electronic summonses forward be agreed, including the constitutional change to procedure rules to issue electronic summonses to reserve members.

Establishment of Standards (Civic Awards) Sub-Committee

4. That from the 2015/2016 civic year, the administration of the civic awards be carried out by the council pending a longer term review of the operation of the awards scheme. Officers are requested to put in place the necessary arrangements for the running of the awards within existing council resources.
5. That decisions on the granting of civic awards be delegated to a sub-committee of the Standards Committee to be known as the Standards (Civic Awards) Sub-Committee with the membership and terms of reference as set out in paragraph 52 and Appendix G.

Consequential changes

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

BACKGROUND INFORMATION

7. All constitutional changes are considered by the constitutional steering panel, which then recommends changes to council assembly. The constitutional steering panel met on 9 June 2015 and agreed that the proposed changes to the constitution, as set out in the following paragraphs, be recommended 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

8. This report considers the following issues referred from the constitutional steering panel:
 - Late questions by group leaders
 - Changes to statutory dismissal procedures for heads of paid service, monitoring officers and Section 151 officers
 - Electronic summonses and agenda packs
 - Southwark Civic Awards.

LATE QUESTIONS BY GROUP LEADERS

9. Council assembly procedure rule 2.8 (urgent questions by group leaders), states that the leader of each group cannot submit an urgent question unless it is a matter that has arisen since the deadline for members' questions has elapsed or is a matter that cannot wait until the next council assembly. The necessity to establish the urgency of each question often causes a delay in agreeing if the question is in order, therefore it is recommended that these restrictions be deleted and that the procedure rule be amended and renamed 'Late questions by group leaders.
10. The proposed change to council assembly procedure rule 2.8 is set out in Appendix A.

CHANGES TO STATUTORY DISMISSAL PROCEDURES FOR HEADS OF PAID SERVICE, MONITORING OFFICERS AND SECTION 151 OFFICERS

11. The original process for dealing with disciplinary action against the head of paid service, monitoring officer and section 151 officer ("the protected officers") was set out in schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001 ("the 2001 Regulations"). They required that no disciplinary action in respect of the protected officers can take place other than in accordance with a recommendation in a report made by a Designated Independent Person (DIP).
12. Disciplinary action in this context has a wide definition of "any action occasioned by alleged misconduct which, if proved, would, according to the

usual practice of the authority, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the authority has undertaken to renew such a contract.

13. Other key features of the former DIP process were:
 - the appointed DIP must be a person agreed between the protected officer and the authority, or where such agreement cannot be reached, a person nominated by the Secretary of State;
 - any suspension for the purposes of investigating the alleged misconduct must be on full pay, and be for no longer than two months, unless specifically extended following a recommendation from the DIP; and
 - where an authority operates a leader and cabinet executive system the dismissal of the head of paid service (but not the monitoring officer or section 151 officer) must be approved by the authority itself.
14. The new process is set out in the schedule to the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 ("the 2015 Regulations") which amend the 2001 Regulations.
15. As well as removing the statutory requirement for a DIP in order to take disciplinary action, generally, the regulations introduce new rules in respect of dismissal.
16. The key elements of the new process are that the dismissal of a protected officer must be approved by way of a vote at a meeting of the authority, who instead of only being able to take action in accordance with DIP recommendations, will be able to dismiss provided they take into account:
 - any advice, views or recommendations of a panel (the Panel),
 - the conclusions of any investigation into the proposed dismissal; and
 - any representations from the protected officer concerned.
17. The 2015 Regulations removes the provisions in the 2001 Regulations, relating to the "DIP required to be appointed by a local authority before it could dismiss or discipline its head of paid service, monitoring officer or chief finance officer.
18. It makes new provision about the procedure to be followed in such cases, which authorities are required to include in their standing orders no later than the first ordinary meeting of the authority falling after 11 May 2015.
19. One other point to note is that the requirement under the DIP process set out above for the authority itself to approve dismissal has been extended to cover the chief finance officer/section 151 officer and monitoring officer.
20. It also requires that the authority, when setting up the Panel for the purpose of advising on matters relating to the dismissal of a relevant officer, invite independent persons who have been appointed under section 28(7) of the Localism Act 2011. The authority is required to appoint such independent persons to the Panel in the specified priority order.

21. In order to implement required changes to standing orders, the Officer Employment Procedure Rules have been amended as shown in Appendix B.
22. The new procedure would be an investigation will take place into any alleged misconduct. In the case of any investigation into the conduct of the head of paid service the investigation will be instigated by the monitoring officer. The monitoring officer will also decide if suspension of the head of paid service is necessary. In all other cases any investigation will be instigated by the head of paid service and whether suspension is necessary.
23. The investigation report will be considered by a disciplinary panel, consisting of an independent chair and two other officers. This panel will determine whether any charge is proven; and decide on the appropriate disciplinary sanction to be applied, if the charge is proven. If they decide on dismissal the matter will be referred to the Appointments Committee.
24. The Appointments Committee would act as the Panel required by the 2015 Regulations and would consider the investigation report and where appropriate make recommendations to council assembly.
25. Making the Appointments Committee the Panel will require changes to its terms of reference and to the Committee Procedure Rules. These are shown in Appendices C and D of this report.

ELECTRONIC SUMMONSES AND AGENDA PACKS

26. On 30 January 2015, the Local Government (Electronic Communications) (England) Order 2015 came into effect, thereby enabling the use of electronic communications in the sending of summonses to members.
27. Following on from the decision taken at the Council Assembly meeting on Wednesday 25 February 2015 about the introduction of electronic summonses, councillors were written to by the constitutional team and informed of the changes. The targeted savings agreed were a minimum of £18,000, to be achieved by reducing printing and distribution costs.
28. The current system is an “opt in” system. It allows members to receive summonses electronically where they consent to them being transmitted by this method. Councillors may at any time give or withdraw their consent. Similarly consent can apply to one or more committees or meetings. Members should allow five clear working days for the method of delivery (electronic / paper) to be changed.
29. In order to issue the electronic summons, officers send an email giving notification of a forthcoming meeting, which sets out the agenda titles with a web link to the reports. This is the electronic summons.
30. When a member gives their consent to receive electronic summons, they do not receive a paper agenda as well. Members receive either an electronic summons or a spare paper copy. A limited number of paper copies are available at meetings.
31. This system applies to open agendas only. Closed agendas are still issued in a paper format; this primarily applies to cabinet and licensing sub-committees. The dispatch of closed papers by post eliminates the possibility of confidential

papers being distributed further afield than the closed distribution list. All open meeting agendas and reports can be accessed via the council's website.

32. The procedures of using electronic summonses outlined above are designed to help save on the council's printing budget and resources generally.
33. At present, the printing costs for some sample agenda packs are:

Pack size in pages	Approx. cost per pack	Approx. cost per meeting (30 packs)
50	£3.23	£ 96.90
75	£4.84	£145.20
100	£6.46	£193.80
150	£9.68	£290.40

34. Excluding licensing sub-committee meetings, based on current estimates there will be about 158 meetings this year. Given the target savings, a minimum of 1,860 fewer average-sized agendas have to be printed this year. This translates into producing roughly 12 fewer agenda packs per meeting.
35. At the time of publication, the uptake of electronic summonses is 7 out of 63 councillors. In addition to this, councillors who are reserves on planning sub-committee meetings have also agreed to receive their summonses for these meetings electronically.
36. While no target has been set for the uptake of electronic summonses, in order to achieve savings, a number of measures were considered by the constitutional steering panel:
 - Option 1 – Keep the set-up as it operates at the moment, but promote the take-up of electronic summonses. For example by officers sending councillors, who have not “opted in”, reminder emails and the option being promoted in the political groups. This option risks potentially generating the smallest amount of savings.
 - Option 2 – Keep set-up as it currently operates and promote “opting in” via email and the political groups (as in Option 1), but send all reserve members electronic copies only. This would extend the system currently in operation, and ensure greater savings, because of the smaller number of agendas printed.
37. Having considered the above, the constitutional steering panel agreed the following:
 - That option 2 be agreed and that group whips inform reserves of the change at their next group meeting.
 - That officers investigate how an email reminder with an agenda link can be sent to members in advance of the meeting to ensure their attendance.
38. A review of the chosen option after six months would be advisable, which should also present the savings achieved.

39. The following procedures in the council's constitution will have to be amended to reflect the new arrangements for issuing electronic summonses to all reserve members:
- 4.3 Council Assembly Procedure Rules
 - 4.4 Committee Procedure Rules
 - 4.5 Community Council Procedure Rules
 - 4.6 Cabinet Procedure Rules

ESTABLISHMENT OF STANDARDS (CIVIC AWARDS) SUB-COMMITTEE

40. The granting of awards is a constitutional function of Standards Committee as set out in Part 3 L of the council's constitution. Standards Committee members have the final discretion whether or not to grant an award, and on the level of award that should be granted.
41. The categories of award available are set out in Appendix E. These were agreed at the standards committee meeting of 9 November 2011. Since then there has only been one amendment made to the eligibility criteria to clarify that nominations of individuals who are candidates for political office should not be considered.
42. While the awards are the council's awards they have been administered since 1997 by the Southwark Civic Association. The Association was founded in 1996 to promote civic awareness, active citizenship, and civic pride across the borough. The awards recognise exceptional contributions to community life by individuals and organisations. The civic awards remain formally made by the council, with the court of the civic association making recommendations to Standards Committee for the granting of civic awards.
43. The awards scheme is primarily a way of recognising exceptional contributions to the civic life of the borough, regardless of factors such as age, ethnicity, disability, gender, or sexual orientation. In this respect the scheme has always been intended to be underpinned by an inclusive approach that encourages the involvement of people from diverse backgrounds although until this year when the council introduced this the association had not actively monitored diversity. This issue has been raised by Standards Committee on a number of occasions who emphasised the importance of putting this arrangement in place. Now this has been established it must continue into the future and form a key part of reviewing the effectiveness of the civic awards.
44. The Civic Association is largely self-funding, through subscriptions and donations. The awards are administered and the presentation ceremony is organised by the Civic Association. The council supports the awards by distributing application forms, promoting the scheme, encouraging nominations, and providing administrative support to the selection and awards process. The council also currently provides support by managing invitations for the awards ceremony, liaising with venue management, and covering costs of venue hire and catering, met from existing council budgets. In practice it is therefore the council that currently undertakes the bulk of the administration of the civic awards.

45. Since their inception there has been no fundamental review of the operation of the civic awards ceremony. It is therefore timely that a full review now takes place to ensure that the awards remain relevant and that the arrangements for administering the awards are effective and efficient. It is recommended that pending this longer-term review the administration of the awards be brought fully back in-house.
46. A limited benchmarking of other London authorities (see Appendix F) has been carried out. In all but one of these cases where civic awards schemes exist they are administered directly by the council. In a number of cases a number of independent members sitting on a council panel help to make recommendations on awards and this is seen as good practice. In most cases fewer individuals or organisations receive awards than in Southwark where over 60 awards were made this year. The risk of making a higher number of awards is that it devalues them. One possible option is that the letters of commendation could be made in a different way (for example alongside the Housing Heroes Awards) leaving the Liberties awards and any special awards for the annual ceremony.
47. Any longer term review should include a fuller benchmarking exercise with other local authorities.
48. The initial benchmarking exercise suggests the following:
 - Administration of the awards should take place within the council in the Mayors Office pending a fuller review of the scheme.
 - Recommendations should be made by a sub-committee established by the Standards Committee with a number of independent members co-opted on to it to represent the local community including one representative from Community Action Southwark as the council's key strategic partner working with the voluntary and community sector. This could be achieved by a relatively small change to the council's constitution adding a civic awards sub-committee to the current powers of Standards Committee to establish sub-committees. The membership and delegations for the sub-committee are set out below.
 - Awards schemes of this kind work better when there are fewer awards given, officers should therefore review the current categories and numbers of awards given and how this can be improved.
49. The constitutional steering panel recommended that a sub-committee be established to make decisions on granting of civic awards and that this be delegated to a sub-committee of the Standards Committee to be known as the Standards (Civic Awards) Sub-Committee. The proposed membership of the sub-committee should be four members of the Standards Committee and three non-voting co-opted representatives of the community. In accordance with proportionality rules this would provide a sub-committee of three Labour and one Liberal Democrat members.
50. The constitutional steering panel recommends a change to the scheme of delegation in "Part 3L: Standards Committee" of the constitution, to council assembly for adoption. The proposed delegation for the sub-committee would be as follows:

Matters reserved for decision by the standards (civic awards) sub-committee

1. To grant civic awards.
2. To consider the process by which the decisions with respect to civic awards applications are to be taken and to make recommendations to the standards committee.
3. To appoint non-voting co-opted members.

51. This proposed change is set out in full in Appendix G.

Community impact statement

52. The constitution enables 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.
53. The proposal in respect of Civic Awards is intended to have a positive community impact by improving the administration and in particular the equalities monitoring of the civic awards scheme.
54. The council is committed to promoting civic engagement and good relations in our communities. Application forms should be distributed widely throughout the borough with any person able to submit a nomination. The awards attract media interest and recognise the voluntary work of a number of people and organisations within Southwark, thus strengthening community cohesion. It is therefore essential that officers consider how the awards reflect the diversity of the community.

Resource implications

55. There are no specific budget implications from the proposals set out in this report. The recommended changes can be maintained within existing resources.
56. 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

57. 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

No.	Item
A	Proposed changes to council assembly procedure rule 2.8 – Late questions by group leaders
B	Officer Employment Procedure Rules
C	Amendments to Part 3I - Appointments Committee
D	Amendments to the Committee Procedure Rules
E	Southwark Civic Association - Award Categories, Criteria and Eligibility
F	Civic Awards Benchmarking
G	Proposed changes to Standards Committee

AUDIT TRAIL

Lead Officer	Ian Millichap, Constitutional Manager	
Report Author	Lesley John, Constitutional Officer	
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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
Director of Human Resources	Yes	Incorporated in the report
Head of Community Engagement	Yes	Incorporated in the report
Cabinet Member	No	No
Date final report sent to Constitutional Team	22 June 2015	