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| Item No. 4.1 | Classification: Open | Date: 19 May 2010 | Meeting Name: Council Assembly (Annual Meeting) |
| Report title: | | Appointment of Leader and Executive, Establishment of Overview and Scrutiny Committee and Other Constitutional Issues – 2010-11 | |
| Ward(s) or groups affected: | | All | |
| From: | | Strategic Director of Communities, Law & Governance | |

RECOMMENDATIONS

1. That council assembly consider the following constitutional issues for the coming municipal year 2010-11:
 - Appoint a leader of the council for a term of four years
 - Notes the appointment by the leader of executive portfolio members
 - Notes the establishment and appointment of executive committee
 - Notes the delegation of executive functions to the full executive, executive committees, individual executive members, chief officers and community councils
 - Notes that as a consequence the monitoring officer will update Part 3 of the constitution in accordance with the leader's report on the delegation of executive functions
 - Establishing the overview and scrutiny committee
 - Establishing the community councils
 - Establishing the voluntary bodies appointment panel
 - Agreeing dates of council assembly meetings for 2010-11
 - Appointments to Local Government Association General Assembly.
2. That council assembly notes the appointment of political group leaders, deputies and whips (see Appendix 1).

Appointment of leader of the council and the executive

3. That council assembly appoint a leader of the council for a term of four years.

Note: Once the leader has been appointed they will report on the appointments to the executive and on individual portfolios. The leader can appoint between 2 and 9 members to form an executive. The leader must appoint a deputy leader. The leader will report on the delegation of executive functions between full executive, individual decision makers, chief officers and community councils (see paragraphs 20-24).
4. That the leader reports to council assembly on the appointment of members of the executive and the determination and allocation of their executive functions.

Establishment and appointment of executive committee

5. That the leader reports on the establishment of any executive committees.

Note: The leader to establish any executive committees and nominate executive members to serve on the committees, including appointing chair and vice-chair.

Delegation of executive functions

6. That council assembly notes the leader's report on the delegation of executive functions to the full executive, executive committees, individual executive members, chief officers and community councils.
7. That council assembly notes that as a consequence of recommendation 6 the monitoring officer will update Part 3 of the constitution in accordance with the leader's report on the delegation of executive functions.

Overview and scrutiny committee

8. That the size and composition of the overview and scrutiny committee, as set out below, be approved:

| Committee | Total | Liberal Democrats | Labour | Conservative |
|---------------------------------------------------------|-----------------|-------------------|-----------------|-----------------|
| Overview and Scrutiny Committee (2009-10 allocation) | 9 (9) | 4 (4) | 5 (4) | 0 (1) |

- Notes:*
1. *The current 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 one non-executive member should this be necessary to maintain proportionality, for example, where there are fewer chairs of scrutiny sub-committees than places on the overview and scrutiny committee.*
 2. *The overview and scrutiny committee and any sub-committee which scrutinises the council's education functions will contain in its membership four voting co-opted members comprising one Church of England, one Roman Catholic Church and two parent governor representatives.*
 3. *No member of the executive shall serve on any scrutiny committee.*
 4. *In 2009-10 the overview and scrutiny committee comprised 9 members. The political composition of the committee was Liberal Democrats 4; Labour 4; and Conservative 1. Following the change in the council's composition a 9-seat committee now provides an allocation of Liberal Democrat 4 and Labour 5.*

9. That council assembly appoints the chair and vice chair of the overview and scrutiny committee.

Community councils

10. That the community councils be established as set out below:

Community councils

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

11. That council assembly considers whether it wishes to appoint chairs and vice chairs for the community councils.

Note: All outstanding appointments will be referred to the first meeting of the respective community council in the 2010-11 municipal year.

Establishment of voluntary bodies appointment panel

12. That council assembly establishes the voluntary bodies appointment panel (VBAP) with a composition of 2 Liberal Democrat and 3 Labour. 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.

Note: In 2009-10 the panel of five members, which was established by council assembly, comprised 2 Liberal Democrat, 2 Labour and 1 Conservative member.

Council assembly dates

13. That council assembly agrees to the following dates for meetings of council assembly and that these dates be fixed in the council calendar for the municipal year 2010-11:

- 14 July 2010
- 3 November 2010
- 26 January 2011
- 22 February 2011 (Budget and council tax setting)
- 6 April 2011
- 18 May 2011 (Annual).

Note: The proposed dates are based on the meetings held in 2009-10.

Appointments to Local Government Association General Assembly

14. That council assembly appoints three representatives and allocates five votes to the representatives to the LGA General Assembly (see Appendix 3).

Other appointments to joint committees/outside bodies

15. That council assembly notes the executive and other committees will make appointments to all other outside committees and bodies for the municipal year 2010-11, as required by part 3S of the constitution.

BACKGROUND INFORMATION

16. The constitution is updated annually and the recommendations in this report are based on the current constitution.

KEY ISSUES FOR CONSIDERATION

Appointment of leader of the council

17. The Local Government and Public Involvement in Health Act 2007 required the council to make changes to its governance and decision making arrangements. At an extraordinary meeting of council assembly on 4 November 2009 the council agreed that the executive leader and cabinet model be adopted. The new arrangements are to commence immediately after the elections in May 2010.
18. In accordance with the agreed executive arrangements, from the third day after the May 2010 borough election the term of office of the leader starts on the day of their election as leader and ends on the day of the next post-election annual meeting, unless they are removed from office or resign, cease to be a member, or are disqualified from being a councillor before that day
19. The executive “leader and cabinet” model is similar to Southwark’s previous leader and executive arrangements. There continues to be a leader of the council and a cabinet of at least two but no more than nine other councillors. However, much more power is placed in the hands of the leader of the council than in the past. The leader is responsible for all executive functions, and decides which of these functions are going to be delegated to other executive members, local committees or council officers. The executive is appointed by the leader and not by the whole council as in the past. Another change to the previous arrangements is that the leader is elected by the whole council for a period of four years at the first meeting of the council after the 2010 elections.

Report of the leader of the council and delegation of executive functions

20. Once the leader is elected they will present a report on how the executive functions of the council are exercised. The elected leader must then proceed to appoint their executive. In accordance with the constitution this can consist of a minimum of 2 and up to a maximum of 9 nominated members, whose portfolios are determined and allocated by the leader. The leader must appoint a deputy leader.
21. In 2009-10 the nine executive members were appointed and allocated the following portfolios:
 - Leader (including responsibility for setting strategic direction and key priorities, overseeing the development of financial strategies, customer relationships policy, school and education attainment and representing the council in the community and in negotiations with regional and national organisations)
 - Deputy Leader (responsible for housing and the executive’s relationship with the scrutiny committee)
 - Community Safety
 - Health and Adult Care
 - Environment
 - Children’s Services
 - Citizenship, Equalities and Communities

- Resources
 - Culture, Leisure and Sport
 - Regeneration.
22. The leader will be invited to report on the delegation of executive functions, appoint a deputy leader and appoint other executive members and their portfolios.
23. The leader will report on any further delegations including:
- The extent of any authority delegated to executive members individually, including details of the limitation on their authority
 - The terms of reference, membership and constitution of executive committees
 - The nature and extent of any delegation of executive functions to community councils, any other authority or joint arrangement
 - The nature and extent of any delegation to officers with details of any limitation on that delegation.
24. Following receipt of the leader's report, council assembly will note as a consequence that the monitoring officer will update Part 3 of the constitution in accordance with the leader's report on the delegation of executive functions.

Overview and scrutiny committee

25. 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.
26. Council assembly can agree an allocation that is disproportionate, provided no member votes against this.

Appointments to seats

27. 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".
28. 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.

Establishment of voluntary bodies appointment panel

29. Council assembly will consider the establishment and composition of the voluntary bodies appointment panel, which will be responsible for making recommendations on appointments to specific Southwark charities and for recommending appointments to secondary and special school governing bodies.

Council assembly dates

30. A calendar of council assembly meetings for the 2010-11 municipal year has been prepared and is shown in the recommendations. The proposed dates are based on the meetings held in 2009-10.

31. Council assembly is asked to formally agree these dates, in accordance with the relevant statutory provision.
32. In respect of meetings other than council assembly, a copy of the calendar will be circulated with a separate report on establishing committees.

Members' allowances scheme

33. On May 23 2007 constitutional council agreed the members' allowances scheme to cover the period 2007-08 to 2010-11. No changes to the scheme are required for the forthcoming year.
34. It is the responsibility of the constitutional steering panel (CSP) to recommend any changes to the members' allowances scheme to council assembly. This is a requirement of the constitution. Any proposals that political groups may wish to submit on changes to the members' allowances scheme will therefore first have to be considered by the constitutional steering panel. Although specific proposals cannot be submitted for consideration by the annual meeting of council assembly, changes can be submitted in the form of an amendment that refers specific changes to the scheme back to CSP to consider them and then to report back to the next council assembly.

Appointments to Local Government Association (LGA) General Assembly

35. Council assembly may appoint up to four representatives to the LGA. In 2009, due to increased financial constraints council assembly appointed three representatives to the Local Government Association (LGA) General Assembly and allocated 5 votes amongst the three representatives. In 2010 council assembly is asked to appoint three representatives and allocate 5 votes. In 2009 council assembly appointed Councillors Nick Stanton (2 votes), Peter John (2 vote) and Toby Eckersley (1 vote). The LGA encourages local authorities with 3 or 4 representatives to allocate at least one position and vote to a minority group representative.

Appointments to outside bodies and joint committees

36. Government guidance states that appointments to outside bodies and joint committees are "local choice" functions. As such, the executive 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.
37. The nomination of representatives to serve on the various London Councils committees and forums is normally the responsibility of the executive, as a local choice function. However, as the deadline for nominations is 1 June 2010 and this is before the first meeting of the executive, council assembly is asked to agree the nominations for the year 2010-11 (see separate report).

Appointments to panels, boards and forums

38. The executive will consider appointments to panels, boards and forums where the function falls within the responsibility of the executive (e.g. housing, education, social services, regeneration, etc.).

BACKGROUND DOCUMENTS

| Background Papers | Held At | Contact |
|----------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|--------------------------------|
| Appointment of Leader and Executive, Establishment of Committees and Other Constitutional Issues 2009-10 Council Assembly May 2009 report | 160 Tooley Street, London, SE1 2TZ | Ian Millichap 020 7525 7225 |

APPENDICES

| Appendix | Title |
|------------|-------------------------------------------------------------------------------------|
| Appendix 1 | Political Group Leaders, Deputies and Whips <i>(To be circulated separately)</i> |
| Appendix 2 | Overview and Scrutiny Committee and Community Council Appointments 2010-11 |
| Appendix 3 | Appointments to LGA General Assembly |

AUDIT TRAIL

| | | |
|---------------------------------------------------------------------------|------------------------------------------------------------------------------|----------------------------------|
| Lead Officer | Deborah Collins, Strategic Director of Communities, Law & Governance | |
| Report Author | Ian Millichap, Constitutional Manager Lesley John, Constitutional Officer | |
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| CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER | | |
| Officer Title | Comments Sought | Comments Included |
| Strategic Director of Communities, Law & Governance | Yes | Yes (included in body of report) |
| Executive Member | No | No |
| Date final report sent to Constitutional Support Services | 11 May 2010 | |