

Item No. 4.2	Classification: Open	Date: 19 May 2010	Meeting Name: Council Assembly (Annual Meeting)
Report title:		Establishment of Committees and Other Constitutional Issues – 2010-11	
Ward(s) or groups affected:		All	
From:		Strategic Director of Communities, Law & Governance	

RECOMMENDATIONS

- That council assembly consider the following constitutional issues for the coming municipal year 2010-11:
 - Proportionality/size and composition of committees
 - Establishing a licensing committee
 - Appointment of chairs and vice chairs
 - Establishing a standards committee
 - Establishing the constitutional steering panel
 - Urgency committee

Proportionality/size and composition of council committees

- That the size and composition of the council's regulatory and other committees be established in accordance with the number of seats each political group has on the council as a whole – this is known as "proportionality".

The table below is based on the assumption that the same committees are established in 2010-11 as existed in 2009-10. The numbers in **bold** are the suggested allocations to political groups, assuming no other changes to committees. The figures in brackets are the numbers in 2009-10.

Committee	Total	Liberal Democrats	Labour	Conservative
Committee 1 (in 2009-10 - Appointments Committee)	7 (7)	3 (3)	4 (3)	0 (1)
Committee 2 (in 2009-10 - Planning Committee)	7 (7)	3 (3)	4 (3)	0 (1)
Committee 3 (in 2009-10 – Disciplinary Appeals Committee)	9 (8)	4 (4)	5 (4)	0 (0)
Committee 4 (In 2009-10 - Audit and Governance Committee)	5 (5)	1 (2)	3 (2)	1 (1)
Committee 5	7	3	4	0

Committee	Total	Liberal Democrats	Labour	Conservative
(In 2009-10 Corporate Parenting Committee)	(8)	(4)	(3)	(1)
Total	35 (35)	14 (16)	20 (15)	1 (4)

Notes: 1. *The size and composition of the council's regulatory and other committees known as "ordinary committees" is set out above. This is based on a total number of 35 seats and includes the committees established in the 2009-10 municipal year. 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.*

*In the table above the figure in **bold** is the suggested allocation following the election on 6 May 2010 (see Appendix 2). The figures in brackets are the allocations approved by council assembly on 27 January 2010.*

2. *It is for council assembly to agree the committees it wishes to establish, the total number of seats and allocate them to the committees numbered 1 to 5 in the table above. In 2009-10 the council established appointments, planning, disciplinary appeals, audit and governance and corporate parenting committees.*
3. *At least one member of the executive shall serve on the appointments committee.*
4. *The constitution states the audit and governance committee will consist of:*
 - *At least three councillors, and up to five councillors, including at least one member of each political group as defined by the Local Government and Housing Act 1989 Regulation 8 Local Government (Committees and Political Groups) Regulations 1990.*

No more than one member of the executive may be a member of the audit and governance committee and no executive member may chair the committee. 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.

Licensing committee

3. That council assembly establishes a licensing committee with a total of 15 seats with the following allocation of seats:
 - 6 Liberal Democrat
 - 8 Labour
 - 1 Conservative.

Notes: 1. *In 2009-10 council assembly agreed to establish the committee on a*

proportionate basis comprising: 7 Liberal Democrat, 7 Labour and 1 Conservative.

2. *It is proposed in 2010-11 that a proportionate committee is established with the changed allocation as set out the recommendation above.*

Licensing sub-committee

4. That council assembly appoints a licensing sub-committee with delegated authority to hear license applications including Licensing Act 2003, Gambling Act 2005, street trading and other licensing responsibilities granted by statute. The sub-committee to include all members of the licensing committee with a quorum of three members.

Appointment of chairs and vice chairs

5. That council assembly considers whether it wishes to appoint chairs and vice chairs for the following committees:

Committees

- Planning committee
- Licensing committee
- Appointments committee
- Disciplinary appeal committee
- Audit and governance committee
- Corporate parenting committee*

*Notes: *In 2009-10 the executive member responsible for children's services chaired the corporate parenting committee. Council assembly is asked to formally approve this appointment in 2010-11.*

All outstanding appointments will be referred to the first meeting of the respective committee in the 2010-11 municipal year.

Standards committee

6. That council assembly notes the constitution states all political groups must be represented on the standards committee and it should comprise of at least four councillors and up to seven councillors.. Council assembly notes the decision in previous years to allocate the councillor membership proportionately. In order to comply with its constitutional requirements, council assembly is requested to establish a standards committee comprising of six councillors. The seats to be allocated to political groups as follows:

- Liberal Democrats 2 places
- Labour 3 places
- Conservatives 1 place.

7. Political groups will be entitled to nominate reserves on the following basis:

- The number of reserves is equivalent to the number of places on the committee.

8. That in accordance with the constitution, the election of chair and vice chair takes place at the first meeting of the standards committee in the 2010-11 municipal year.

Notes: 1. The constitution states the standards committee will consist of:

- *At least four councillors, and up to seven councillors, including at least one member of each political group as defined by the Local Government and Housing Act 1989 Regulation 8 Local Government (Committees and Political Groups) Regulations 1990.*
2. *No more than one member of the executive may be a member of the standards committee.*
 3. *Guidance from Standards for England states that standards committees need not reflect the political balance of the authority. This is it says because the standards committee should be above party politics and its members need to have the respect of the whole authority, regardless of the governing political party.*

Establishment of the constitutional steering panel

9. That council assembly agrees to establish a constitutional steering panel comprised of the whips of each political group represented on the council (or a nominated reserve), with the terms of reference set out in paragraphs 56 and 57.
10. That council assembly appoints a chair of the constitutional steering panel.

Urgency committee

11. 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.

Council calendar

12. That the calendar of council meetings for the 2010-11 municipal year ahead as shown at Appendix 3 be noted.

BACKGROUND INFORMATION

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

KEY ISSUES FOR CONSIDERATION

Proportionality – the legal position

14. 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.
15. 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, disciplinary appeals, audit and governance and corporate parenting. The total number of seats on these five committees must be allocated as proportionately as is reasonably practicable.

2. The licensing committee is appointed under the Licensing Act 2003 and the overview and scrutiny committee is appointed under section 21 of the Local Government Act 2000. Neither committee is 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 licensing committee, standards committee and community councils.

Regulatory and other committees

16. The regulatory and other committees are the "ordinary committees" of the council. In 2009-10 the annual meeting established the following:
 - Appointments committee
 - Planning committee
 - Disciplinary appeals committee
 - Audit and governance committee
 - Corporate parenting committee
17. 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.
18. Council assembly can agree an allocation that is disproportionate, provided no member votes against this.

Appointments to seats

19. 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".
20. 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.

Audit and governance committee

21. The constitution states that the audit and governance committee shall consist of at least three councillors, and up to five councillors, including at least one member of each political group. Council assembly notes the decision last year to allocate the councillor membership proportionately as one of the "ordinary committees". In order to comply with its constitutional requirements, council assembly is recommended to establish a committee comprising of five councillors in 2010-11. The seats to be allocated to political groups as follows:
 - Liberal Democrats 1 place
 - Labour 3 places
 - Conservatives 1 place.
22. 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."
23. A summary of the committee's role and composition is set out in Appendix 1.

Licensing committee

24. Section 6 of the Licensing Act 2003 requires a licensing committee of 10 to 15 members. Council agreed in December 2004 that the licensing committee should comprise 15 members in order to achieve maximum flexibility. The power to establish the committee vests with council assembly.
25. 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 2009-10, agreed the following allocation of seats: 7 Liberal Democrat, 7 Labour and 1 Conservative. A revised allocation reflecting the new proportionality on the council is included in the recommendation above.
26. The Licensing Act 2003 makes no provision to appoint reserve members.

Appointment of chairs and vice chairs

27. With the exception of the standards committee, 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.

28. In the case of the corporate parenting committee, it is proposed that the executive member with responsibility for children's services be appointed chair. This is in line with the decision of the annual meeting last year.

Standards committee

29. The council's constitution states that the standards committee must comprise seven councillors, including at least one member from each political group as defined by the Local Government and Housing Act 1989. Section 53(10) of the Local Government Act 2000 provides that the duty to allocate seats to political groups does not apply to a standards committee. The power to appoint members of the committee vests in council assembly and, in practice, council assembly has appointed members on the basis of the number of seats allocated to each political group. In previous years council assembly has allocated seats proportionately. Not more than one executive member may sit on a standards committee.
30. At least 25% of the committee's membership must be independent. In May 2009, council assembly agreed that the term of office for independent members be four years. Independent members serve a maximum of two terms.
31. The following independent members will continue to serve on the standards committee after annual council:
- Chris Gurney - until annual council May 2012 (1st term)
 - Peter Bibby - until annual council May 2012 (1st term)
 - Wendy Golding - until annual council May 2012 (2nd term)
 - Mark Roelofsen - until annual council May 2013 (2nd term)
 - Bola Ogun - until annual council May 2013 (2nd term).
32. The chair and vice chair are appointed at the first meeting of the committee in the new municipal year. The chair is elected from the independent members of the committee.

Reserve members

33. The council assembly, committee and overview and scrutiny procedure rules make provision for the appointment of reserve members to council committees and to overview and scrutiny sub-committees. There is no provision for reserves on the licensing committee or community councils.
34. 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.
35. If a political group holds only one place on a committee or sub-committee, that group may appoint one reserve member.
36. On the overview and scrutiny committee, scrutiny sub-committees 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 constitutional steering panel

37. The constitutional steering 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.
38. In 2009-10 council assembly established a panel with a membership comprising the group whips of each political group represented on the council. In accordance with current practice the recommendation clarifies that groups can nominate a reserve to attend in the absence of the group whip. Council assembly is also invited to appoint a chair of the constitutional steering panel.

Urgency committee

39. 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 standards local filter issues. However, in light of the post-election period in 2010 and the new leader arrangements this will be reviewed. Officers will report to the constitutional steering panel with any future proposals.

Council calendar

40. A calendar of council meetings for the 2010-11 municipal year ahead has been prepared and is shown at Appendix 3.
41. The calendar is broadly based on a 6-week cycle; however the allocation of dates necessarily includes a number of deviations from the 6-week cycle to allow for school holidays, party conferences and other committed dates. Due to the demands of the service, certain meetings will meet more frequently e.g. executive and planning. Executive procedure rule 2.1 requires that the executive should meet at least ten times per year, therefore executive meetings are scheduled in line with this requirement. Scrutiny sub-committees are indicated by a number in the draft calendar, pending their establishment by the overview and scrutiny committee.
42. The dates proposed for council assembly meetings were reported in item 4.1 on the agenda. The dates are included in the calendar and council assembly is asked formally to agree these, in accordance with the relevant statutory provision.
43. In respect of meetings other than council assembly, this calendar is subject to amendments, additions and cancellations. The calendar is regularly updated throughout the year and is published on the council's website.

REASONS FOR URGENCY

44. In accordance with the council's constitution the annual meeting on 19 May 2010 is responsible for the establishment of committees. The constitution states that only council assembly can consider these constitutional issues. Any delay in establishing these important meetings on 19 May 2010 would lead to the council being unable to fully exercise its statutory responsibilities and duties as reserved to each of the committees. Notice of this report was given on the order of business for the annual meeting which was issued on Tuesday 11 May 2010.

REASONS FOR LATENESS

45. Following the borough elections on Thursday 6 May 2010, the composition of the new council was not known until 8 May 2010 after the completion of the count. Subsequently on Monday 10 May it was not possible in the short time available to finalise the proposed new committee proportionalities in time for the agenda despatch on Tuesday 11 May 2010.

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	Regulatory and Other Committees Appointments 2010-11
Appendix 2	Proportionality – Ordinary Committees – Proposal based on allocation of seats following election on 6 May 2010 and the committees established in 2009-10
Appendix 3	Council Calendar 2010-11

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Communities, Law & Governance	
Report Author	Ian Millichap, Constitutional Manager Lesley John, Constitutional Officer	
Version	Final	
Dated	14 May 2010	
Key Decision?	No	
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	14 May 2010	