

<b>Item No.</b> 3.2	<b>Classification:</b> Open	<b>Date:</b> 14 May 2016	<b>Meeting Name:</b> Council Assembly (Annual Meeting)
<b>Report title:</b>		Establishment of Committees, Community Councils, Panels and Related Matters – 2016/17	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Proper Constitutional Officer	

## RECOMMENDATIONS

1. That council assembly notes the appointment of political group leaders, deputies and whips.
2. That at the time of publication of this report (Friday 6 May 2016), the current division of seats and percentage allocation of each political group on the council is as follows:

**Table 1: Division of seats**

Group	Total	%
Labour	46	73.02
Liberal Democrat	12	19.05
Conservative	2	3.17
Vacancies	3	4.76
<b>Total</b>	<b>63</b>	<b>100.00</b>

3. That council assembly establishes the following committees and community councils for the coming municipal year 2016/17, subject to officers reporting to annual council assembly on 14 May 2016, any changes to proportionality following the by-elections results on 5 May 2016.

**Table 2: Ordinary Committees - Total number of seats 29**

Committee	Total	Lab	Lib Dem	Con
Committee 1 Appointments Committee	7	6	1	0
Committee 2 Planning Committee	8	5	2	1
Committee 3 Audit, Governance and Standards Committee	7	5	2	0
Committee 4 Corporate Parenting Committee	7	6	1	0
<b>Total</b>	<b>29</b>	<b>22</b>	<b>6</b>	<b>1</b>

Notes:

1. This table is based on the committees established in 2015/16 i.e. appointments, planning and corporate parenting committees and the merger of audit, governance and standards committee as agreed by council assembly on 16 March 2016.
2. The proper constitutional officer reported to constitutional steering panel on 13 April 2016 on the total number of places and allocation of seats as set out in Table 2. This allocation is based on the division of seats at the time of council assembly on 16 March 2016 (see Table 6 in paragraph 16). This will be reviewed and updated following the outcome of the by-elections on 5 May and 9 June 2016 respectively.

**Table 3: Other committees - Total number of seats 29**

Committee	Total	Lab	Lib Dem	Con
Overview and Scrutiny Committee	11	8	3	0
Licensing Committee	15	11	3	1

**Table 4: Community councils**

1.	Bermondsey and Rotherhithe
2.	Borough, Bankside and Walworth
3.	Camberwell
4.	Dulwich
5.	Peckham and Nunhead

Note: The membership of community councils is set out in Article 8 of the constitution (see paragraph 47 of this report).

**Audit, governance and standards committee - Role and functions and changes to committee procedure rules**

4. The constitutional steering panel on 13 April 2016 recommended that audit, governance and standards committee be constituted with the role and functions as set out in Appendix 2 and consequential changes to the committee procedure rules as set out in Appendix 3.

**Health and wellbeing board**

5. That the health and wellbeing board be established as a committee of the council under the Health and Social Care Act 2012 with the membership set out in paragraph 44 of the report.
6. That it be noted that the local authority membership is nominated by the leader of the council. In accordance with committee procedure rules, the board is chaired by the leader.

**Appointment of chairs and vice chairs**

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

## Committees

- Appointments committee
- Planning committee
- Audit, governance and standards committee
- Corporate parenting committee [see note 1 below]
- Overview and scrutiny committee
- Licensing committee

## Community councils

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

### Notes:

1. In 2015/16, the cabinet member responsible for children's services chaired the corporate parenting committee. Council assembly is asked to formally approve this appointment in 2016/17.
2. All outstanding appointments will be referred to the first meeting of the respective committee or community council in the 2016/17 municipal year.

## Establishment of the council's panels

8. That council assembly establishes the following council panels (see paragraph 59):

**Table 5: Panels - Total number of seats 18**

Committee	Total	Lab	Lib Dem	Con
Council assembly business panel	5	3	1	1
Constitutional steering panel	5	3	1	1
Pensions advisory panel	3	2	1	0
Voluntary bodies appointment panel	5	4	1	0

Note: This table is based on the panels established in 2015/16.

## Appointments of chair to constitutional steering panel and voluntary bodies appointment panel

9. That council assembly appoints a chair to the following panels:
  - Constitutional steering panel [see note 1 below]
  - Voluntary bodies appointment panel.

Notes:

1. The constitutional steering panel in 2015/16 was chaired by the group whip of the majority group. Council assembly is asked to formally approve this appointment in 2016/17.
2. That it be noted that the council assembly business panel is chaired by the Mayor.

### **Urgency committee**

10. That the role of the urgency committee between a municipal election and the annual meeting of council assembly, as agreed by council assembly on 26 March 2014, be noted as set out in paragraphs 61 - 63.

### **Appointments to Local Government Association General Assembly**

11. That council assembly appoints up to three representatives and allocates the five votes to representatives to attend the LGA General Assembly (see paragraph 64 - 65).

### **BACKGROUND INFORMATION**

12. The constitution is updated as and when changes are required. The recommendations in this report are based on the current constitution and previous decisions of the council.
13. On 13 April 2016, the constitutional steering panel considered the revised role and functions and procedure rules for the new audit, governance and standards committee and the panel recommended a number of changes to council assembly for approval.

### **KEY ISSUES FOR CONSIDERATION**

#### **Division of seats**

14. The allocation of places in this report is based on the division of seats on 16 March 2016, i.e. the date of council assembly which agreed to reduce the number of ordinary committees.
15. **Impact of by-elections:** The proportionality will be reviewed again following the outcome of the College and Newington wards by-elections on 5 May 2016 and the Surrey Docks by-election on 9 June 2016..
16. The division of seats and percentage allocation as at 16 March 2016 for each political group on the council was as follows:

**Table 6: Division of seats at 16 March 2016**

<b>Group</b>	<b>Total</b>	<b>%</b>
Labour	48	76.19
Liberal Democrat	13	20.64
Conservative	2	3.17
Total	63	100.00

## **Proportionality – the legal position**

17. The size and composition of the council's regulatory and other committees are established in accordance with the number of seats each political group has on the council as a whole – this is known as "proportionality".
18. 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.
19. 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.

Notes:

1. The ordinary committees are appointments; planning; audit, governance and standards; corporate parenting (see also paragraphs 22 - 26).
  2. The licensing committee is appointed under the Licensing Act 2003, the overview and scrutiny committee is appointed under section 21 of the Local Government Act 2000 and the health and wellbeing committee is appointed under the Health and Social Care Act 2012 and is to be treated as if appointed under section 102 of the Local Government Act 1972. None of the aforementioned committees are treated as 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 the licensing committee.

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

## **Appointments to seats**

21. 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”.

### **Ordinary committees**

22. The regulatory and other committees are the “ordinary committees” of the council. As reported to the constitutional steering panel on 13 April 2016, in 2015/16 the annual meeting established the following:
- Appointments committee
  - Planning committee
  - Standards committee
  - Audit and governance committee
  - Corporate parenting committee
23. On 16 March 2016, council assembly agreed to merge the role and functions of the audit and governance committee and standards committee into a single committee to be established at the annual meeting in May 2016. This would reduce the number of ordinary committees from five to four. A revised roles and functions of the proposed audit, governance and standards committee are attached as Appendix 2. Some consequential changes to the committee procedure rules pertaining to the new committee are set out in Appendix 3. This is recommended for approval. The existing standards sub-committees on civic awards and conduct (considering any complaints against members) would be retained.
24. The impact of a reduction in the number of ordinary committees from five to four committees would mean that the four ordinary committees would have an overall number of 29 seats. 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. Officers have reviewed the impact on the proportionality calculations on the ordinary committees for 2016/17. Table 2 set out in recommendation 3 is based on those committees established in 2015/16 and the decision of 16 March 2016 council assembly to merge the standards committee with the audit and governance committee and uses the division of seats that existed at the time of council assembly. This will be reviewed and reported to the annual meeting following the outcome of the College and Newington wards by-elections. Proportionality will be reviewed again following the Surrey Docks by-election.
25. 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.
26. Council assembly is exercising a matter reserved to it in Part 3A (4) of the constitution to establish committees. It is for council assembly to agree the committees it wishes to establish, to set the total number of seats and allocate them to the committees numbered 1 to 4 in the Table 2 in paragraph 3 above.

### **Appointments committee**

27. The appointments committee determines appointments to posts of chief officers, chief finance officer and monitoring officer and also acts as a panel for the purpose of advising council assembly on matters relating to the dismissal of the head of paid service, the chief finance officer or the monitoring officer as prescribed by the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).

28. At least one member of the cabinet shall serve on the appointments committee.

### **Audit, Governance and Standards committee**

29. A newly constituted audit, governance and standards committee will provide independent assurance of the adequacy of the council's governance arrangements, independent scrutiny of the council's financial and non-financial performance, has oversight of the financial reporting process of the council and ensures that its members and co-opted members maintain high standards of conduct and requires such authorities to adopt a code of conduct for their members.
30. The Chartered Institute of Public Finance and Accountancy (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."
31. A constitutional change to the committee procedure rules is recommended for approval that states that no more than one member of the cabinet may be a member of the audit, governance and standards committee and no cabinet member may chair the committee. The chair may be a deputy cabinet member as this role does not include the exercise of any delegated powers. The changes are set out in Appendix 3.
32. No more than one member of the overview and scrutiny committee may be a member of the audit, governance and standards committee and no member of the overview and scrutiny committee may chair the committee. In 2015/16 no members of the cabinet sat on the audit and governance committee or the standards committee and no overview and scrutiny committee member sat on the committees.

### **Overview and scrutiny committee**

33. The overview and scrutiny committee (OSC) is the coordinating scrutiny body and appoints a number of scrutiny sub committees. It questions cabinet members and can "call-in" decisions taken by the cabinet, individual cabinet members, community councils taking decisions on executive functions and key decisions taken by chief officers.
34. OSC co-ordinates councillor calls for action and scrutiny of health, crime and disorder, considers requests for scrutiny reviews and approves scrutiny work programmes. It receives and comments on reports from scrutiny sub-committees, and reviews overview and scrutiny procedures.
35. The committee can also appoint joint committees with other local authorities.
36. 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 and it will consider the allocation of places on sub-committees including members who are not part of any political group.
37. Council assembly can agree an allocation that is disproportionate, provided no member votes against this.

38. The 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 members who are not cabinet members should it be necessary to maintain proportionality and/or if there are fewer chairs of scrutiny sub-committees than places on the overview and scrutiny committee.
39. The overview and scrutiny committee and any sub-committee which scrutinises the council's education functions will contain in its membership four voting education representatives in addition to its councillor members, comprising one Church of England, one Roman Catholic Church and two parent governor representatives.
40. No member of the cabinet shall serve on any scrutiny committee.

### **Health and wellbeing board**

41. The Health and Social Care Act 2012 enables the local authority to arrange for any of its functions to be exercised by the board should it so wish. The board will not have the power to perform any of the functions given to the health overview and scrutiny committee, and it will itself be subject to overview and scrutiny as a committee of the council. In addition members of scrutiny committees should not be members of the health and wellbeing board as this may create a conflict of interests. The health and wellbeing board was first constituted by council assembly on 27 March 2013.
42. It will be for the leader of the council under the 'strong leader' model to decide whether any executive functions should be delegated to the board. Until such a decision is taken, the board will operate in accordance within the council's existing decision-making framework and normal council budget setting processes.
43. The health and wellbeing board must include six statutory members which are:
  - At least one councillor, who will be (or be nominated by) the leader
  - The director of adult social services of the local authority
  - The director of children's services of the local authority
  - The director of public health of the local authority
  - A representative of local healthwatch
  - A representative of the clinical commissioning group.
44. On 31 March 2016, the health and wellbeing board agreed that the board should be comprised of the following membership:
  - Local authority councillors, who will be (or be nominated by) the leader of the council
    - The leader of the council
    - The cabinet member for public health, parks and leisure
    - The cabinet member for adult care and financial inclusion
  - The chief executive of the council
  - The strategic director of children's and adults' services
  - The director of public health
  - Three representatives from the NHS Southwark Clinical Commissioning Group
  - A representative of Healthwatch Southwark
  - A representative from King's Health Partners
  - The chief executive of Community Southwark.

Note: A representative from the Southwark Headteachers Executive has been invited to join the board.

45. All members of the health and wellbeing board are subject to Southwark's Code of Conduct for elected members when acting as a member of the board and will be subject to declarations of disclosable pecuniary interests. As a consequence it is recommended that substitutes should not be permitted at meetings of the committee.

### Community councils

46. Community councils take decisions about local matters and have some responsibility for decisions in the following key areas: the neighbourhoods fund, the cleaner, greener, safer capital programme, traffic management and agreeing schemes for the community infrastructure levy project bank. Community councils also offer an important mechanism for formal consultation on council wide policies and strategies.
47. Following the decision by council assembly in February 2012, there are five community councils areas divided by geographical areas as follows:

**Table 7: Community councils areas divided by geographical areas**

Name of community council	Members from electoral wards serving on community councils
Bermondsey and Rotherhithe	Grange, Livesey (north of the Old Kent Road), Riverside, Rotherhithe, South Bermondsey and Surrey Docks wards
Borough, Bankside and Walworth	Cathedrals, Chaucer, East Walworth, Faraday and Newington wards
Camberwell	Brunswick Park, Camberwell Green and South Camberwell wards
Dulwich	College, East Dulwich and Village wards
Peckham and Nunhead	Livesey (south of the Old Kent Road), Nunhead, Peckham, Peckham Rye and the Lane wards

48. The membership of community councils included those councillors who were members for the electoral wards wholly or partly contained within the area of each community council. Community councils do not need to be politically balanced. Livesey ward members shall serve as voting members on Peckham and Nunhead and Bermondsey and Rotherhithe community councils. In line with the decisions of council assembly in February 2012, the community councils met five times a year in 2015/16. Community councils meet in local venues around the borough. Members are currently being consulted on ways to increase community council's efficiency, broaden their reach and better the way in which the council engages with its residents.

### Licensing committee

49. Section 6 of the Licensing Act 2003 requires that each licensing authority must establish a licensing committee of at least 10, but no more than 15 members of the authority. The power to establish the committee rests with council assembly. Council agreed in

December 2004 that the licensing committee should comprise 15 members in order to achieve maximum flexibility and provide a sufficient pool of members to ensure quorate sub-committees.

50. 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 2015/16, agreed the following allocation of seats: Labour eleven seats, Liberal Democrat three seats and Conservative one seat.
51. The Licensing Act 2003 makes no provision to appoint reserve members.
52. In accordance with the constitution, a licensing sub-committee with delegated authority to hear licence applications including Licensing Act 2003, Gambling Act 2005, street trading and other licensing responsibilities granted by statute. The sub-committee will include members of the licensing committee with a quorum of three members and a reserve. Sub-committees shall be summoned as required to deal with any business and the membership will be based on the allocation process agreed by the licensing committee on 6 December 2007.

#### **Appointment of chairs and vice chairs**

53. 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.
54. In the case of the corporate parenting committee, it is proposed that the cabinet member with responsibility for children's services be appointed chair. This is in line with the decision of the annual meeting last year.
55. The health and wellbeing board is chaired by the leader of the council, in accordance with committee procedure rule 9.13.

#### **Reserve members**

56. The council assembly, committee and overview and scrutiny procedure rules make provision for the appointment of reserve members to council committees and to scrutiny committees. There is no provision for reserves on the licensing committee, the health and wellbeing board or community councils.
57. 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 audit, governance and standards committee, one less than the number of places the group holds on the committee or sub-committee. If a political group holds only one place on a committee or sub-committee, that group may appoint one reserve member.
58. On the overview and scrutiny committee and the audit, governance and 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. In respect of the latter, a constitutional change to the committee procedure rules is set out in Appendix 3.

#### **Establishment of the council's panels**

59. Council assembly will consider the establishment and composition of the following council panels:

- **Council assembly business panel** – The panel is chaired by the Mayor and consists of two representatives from the majority group (one of whom is the whip) and the whips of the other political groups represented on the council. The panel acts as an advisory panel to the Mayor on council assembly matters, including the setting of themes for debate.
- **Constitutional steering panel** – The 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. In 2015/16 the panel was chaired by the chief whip of the majority group.

In 2015/16, council assembly established a panel with a membership comprising the group whip and two other members from the majority group and the whips of the other political groups represented on the council. In accordance with current practice groups can nominate a reserve to attend in the absence of a representative. Council assembly is also invited to appoint a chair of the constitutional steering panel.

- **Pensions advisory panel** – The panel has a composition of three members, officers, independent advisors and a trade union representative. The purpose of the panel is to advise the chief finance officer when performing functions relating to the council's pension scheme.
- **Voluntary bodies appointment panel** – The panel has a composition of four Labour and one Liberal Democrat member. 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.

### **Council assembly dates**

60. A calendar of council assembly meetings for the 2016/17 municipal year was agreed at council assembly on 16 March 2016. This meeting agreed the council assembly dates, in accordance with the relevant statutory provision.

### **Urgency committee**

61. On 26 March 2014, council assembly established the urgency committee, together with planning and licensing (urgency) sub-committees, to function during the interim period between a municipal election and the annual meeting of council assembly. The urgency committees will exercise the non-executive 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. The urgency committees have normally only met to consider issues that are time sensitive and cannot wait for the annual meeting to establish the decision making arrangements. The leader shall exercise any urgent executive matters.
62. Council assembly on 26 March 2014 agreed that the urgency arrangements should be as follows:
- Urgency committee - 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. The urgency committee arrangements comprise the leaders of the two largest political groups following the borough-wide elections.

- Executive arrangements – Executive decisions will be exercised by the leader (if personally re-elected or his nominee, a relevant cabinet member). If the leader (or relevant cabinet member) is required to take an executive decision, because the normal scrutiny arrangements would not have been established by the annual meeting, executive decisions would be treated in a similar way to urgent implementation decisions or an urgent decision outside the budget and policy framework. If the leader is not re-elected the urgency committee shall exercise the executive functions.
- Planning and licensing – Separate arrangements exist for a planning (urgency) sub-committee and a licensing (urgency) sub-committee. 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. The arrangements are set out in more detail in Part 3N of the council's constitution.

63. The annual meeting in May 2017 will establish the committee and its sub-committees in advance of the borough wide elections in 2018.

#### **Appointments to Local Government Association (LGA) General Assembly**

64. In 2015, council assembly appointed three representatives to the Local Government Association (LGA) General Assembly and allocated 5 votes amongst the three representatives as set out in Table 8:

**Table 8: Appointments to Local Government Association (LGA) General Assembly**

<b>Representative</b>	<b>No. of votes</b>	<b>Group</b>
Councillor Peter John	3	Labour
Councillor Ian Wingfield	1	Labour
Councillor Anood Al-Samerai	1	Liberal Democrat

65. In 2016, council assembly is asked to appoint up to three representatives and allocate 5 votes. The Local Government Association advises that votes can be allocated amongst the representatives as the local authority sees fit. The LGA encourages local authorities with three or four representatives to allocate at least one position and vote to a minority group representative. Council assembly can agree any combination of representatives and votes.

#### **Establishment of sub-committees**

66. Sub-committees shall be established at the first meeting of the relevant parent committee. The current committees with sub-committees include overview and scrutiny, planning and audit, governance and standards.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
<p>Appointment of Leader and Executive Functions 2015/16 Report - Council Assembly 16 May 2015</p> <p>Establishment of committees and other constitutional issues 2015/16 - Report - Council Assembly 16 May 2015</p> <p>Agenda and minutes for the following meetings:</p> <ul style="list-style-type: none"> <li>• Licensing Committee 6 December 2007</li> <li>• Council Assembly 8 December 2004</li> <li>• Council Assembly 29 February 2012</li> <li>• Council Assembly 23 May 2012</li> <li>• Council Assembly 27 March 2013</li> <li>• Council Assembly 26 March 2014</li> <li>• Council Assembly 11 June 2014</li> <li>• Council Assembly 16 May 2015</li> <li>• Council Assembly 16 March 2016</li> </ul>	<p>Southwark Council Constitutional team 160 Tooley Street, London, SE1 2QH</p>	<p>Ian Millichap 020 7525 7225</p>

## APPENDICES

Appendix	Title
Appendix 1	Political Group Leaders, Deputies and Whips (information to be circulated separately)
Appendix 2	Audit, Governance and Standards Committee - Role and Functions
Appendix 3	Audit, Governance and Standards Committee – Changes to Committee Procedure Rules
Appendix 4	Proportionality (To be circulated separately)

## AUDIT TRAIL

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Director of Law and Democracy	Yes	Yes (included in body of report)
Strategic Director of Finance and Governance	No	No
<b>Cabinet Member</b>	No	No
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