



Report – Policy and Resources Committee

Bill for an Act of Common Council: To change the date of ordinary elections of Common Councilmen

*To be presented on Thursday 13th September, 2012
To the Right Honourable The Lord Mayor, Aldermen and Commons
of the City of London in Common Council assembled.*

Summary

1. On 19th July the Court of Common received this Bill for an Act of Common Council for its first and second reading and this submission would represent the third and final reading. You will recall that the purpose of the Bill is to change the date of ordinary elections of Common Councilmen and that its terms had been settled by the Recorder of London.
2. Under the current election timetable, the nomination period for candidates in 2013 would close before the ward lists for 2013-2014 (which will be compiled towards the end of this year) come into force. Therefore, candidates who are not already on an existing ward list would not be able to qualify for election solely by virtue of being registered in a ward list for 2013-2014. The persons who would be eligible to subscribe nomination papers would also be restricted. As the date that the ward lists come into force cannot be changed without an Act of Parliament, the proposed solution is to push the date of the elections back so that the nomination period is after the new ward lists come into force.
3. This problem is not unique to 2013, and therefore it is proposed to change the date of all future ordinary elections of Common Councilmen. As has been discussed informally with Members, this presents an opportunity to move the day fixed for the holding of the elections from a Friday to a Wednesday. This would mean any poll being held on a Thursday, rather than a Monday, which would be more familiar to the voting public.
4. It is proposed that the elections would ordinarily be fixed for the third Wednesday in March in every fourth year. In 2013 the elections would take place on Wednesday 20 March, with any poll being held on Thursday 21 March. However, in election years where this would still lead to problems with the nomination period, the elections would be fixed for the fourth Wednesday in March. It is proposed that on those rare occasions when neither of the

above dates is suitable then the Town Clerk be authorised to set an alternative date for the elections in consultation with the Lord Mayor.

Recommendation

5. We **recommend** that the Bill for an Act of Common Council be approved in the form attached.

Main Report

Purpose of report

1. The purpose of this report is to seek approval to the annexed draft Bill for an Act of Common Council to change the date of ordinary elections of Common Councilmen.

Introduction

2. A letter was sent to all elected members at the end of March 2012 explaining that there are problems with the existing electoral timetable for ordinary elections of Common Councilmen. This report explains those problems in more detail and recommends an appropriate solution.

Background

Qualification for election to Common Council

3. Section 5(1) of the City of London (Various Powers) Act 1957 provides that a person shall unless disqualified by virtue of any enactment be qualified for election to the Common Council as a Common Councilman if at the date of nomination and at the date of election he is a freeman of the City and is of full age and a British subject or a citizen of the Republic of Ireland or a relevant citizen of the Union and:
 - (a) is registered in the list of persons entitled to vote at any ward election; or
 - (b) owns freehold or leasehold land in the City; or
 - (c) has during the whole of the twelve months preceding the date of nomination, and has until the date of election, resided in the City.
4. Section 5(2) of the City of London (Various Powers) Act 1957 makes it clear that a person shall not be qualified for election as a Common Councilman otherwise than in accordance with that section. As these provisions are set out in primary legislation they cannot be changed by Act of Common Council.

Relevant dates for ward lists

5. Provisional ward lists must be prepared and published by 30 November in each year. The deadline for submitting a claim to be included in a ward list is 16 December in each year. Final ward lists must be published by 15 February in each year and these are the definitive lists of all persons entitled to vote as

electors at ward elections held between 16 February in that year and 15 February in the following year. These dates are set out in section 7 of the City of London (Various Powers) Act 1957 and again cannot be changed by Act of Common Council.

Existing timetable for elections, polls and nominations

6. Ordinary elections of Common Councilmen currently take place on the second Friday in March in every fourth year after 2005.¹ This means that the date will vary between 8 March and 14 March.
7. Other dates in the electoral timetable are calculated by working back from the date fixed for the holding of a ward election. A notice of ward election must be prepared and published by the Ward Clerk no later than the 25th day (excluding a Sunday, bank holiday, and certain other days) before the ward election.² This commences the nomination period. The final date for publication of this notice varies between 7 February and 13 February depending on where the second Friday in March falls in the calendar. The notice of ward election can be published earlier – for the ordinary elections in 2009 it was published one week earlier.
8. Completed nomination papers must be delivered to the Ward Clerk no later than noon on the 19th day (excluding a Sunday, bank holiday, and certain other days) before the ward election.³ The deadline varies between 14 February and 20 February, again depending on where the second Friday in March falls in the calendar. This deadline cannot be extended.
9. Where there is a contested ward election the poll is held on the day following the day fixed for the holding of the ward election (excluding a Saturday, Sunday, bank holiday, and certain other days).⁴ At the moment therefore any poll arising from the ordinary elections of Common Councilmen is held on the Monday following the second Friday in March.

The current problems

10. Under the current electoral timetable the date of the next ordinary elections of Common Councilmen will be Friday 8 March 2013, with any poll on Monday 11 March 2013. The nomination period will open on 7 February 2013 and close on 14 February 2013.
11. The main problem that has been identified is in relation to candidates who are seeking to rely on the qualification that they are registered in the list of persons entitled to vote at any ward election. This is because, as explained in paragraph 3 above, any qualification must be satisfied as at the date of nomination and at the date of election. Given that the ward lists in force for the

¹ This is set out in section 1 of the Act of Common Council of 22 May 2003.

² The relevant provision is contained in section 6(1) of the Act of Common Council of 14 July 1960 (as substituted by section 3 of the Act of Common Council of 6 November 2008).

³ The relevant provision is contained in section 7(1) of the Act of Common Council of 14 July 1960 (as substituted by section 4 of the Act of Common Council of 6 November 2008).

⁴ This is provided for by section 11A of the Act of Common Council of 14 July 1960 (inserted by section 1(2) of the Act of Common Council of 7 July 1977).

whole of the nomination period will be those for 2012-2013, candidates must already be on an existing ward list, as well as ensuring that they are on a ward list for 2013-2014, in order to successfully rely on this qualification. Candidates, including serving Members, who are not already on an existing ward list will not be able to use this particular route to qualification.

12. This situation is not peculiar to 2013. As can be seen from the various dates given above, under the current electoral timetable the nomination period frequently closes before 16 February, and always straddles that date. In the latter case candidates who are only on a ward list in force after 16 February will have an opportunity to be nominated, but their nomination period is effectively reduced.
13. Another problem is that every nomination paper must be subscribed by persons whose names appear in the ward list for the ward in which the candidate seeks election.⁵ This means the ward list in force at the point of nomination, as well as the ward list in force at the time of the election. Whilst candidates can select their subscribers accordingly, the current timetable increases the chances of a nomination paper being rejected.
14. One option would be to push back the nomination period so that it occurs closer to the date of the ward election. However the nomination period was advanced by five days in 2008, to give candidates more notice of a contested election, and to facilitate postal voting. For this reason this option is not recommended.
15. Another option would be to choose a date for the ordinary elections of Common Councilmen that is late enough in March to ensure that the nomination period always commences on or after 16 February. The reason that this is problematic is that it would sometimes conflict with the Easter break – Easter Sunday can occur as early as 22 March. There is no one date that would always result in the nomination period commencing on or after 16 February and also avoid proximity with the Easter break. Even a “fixed” date would have to be moved when it fell on a Saturday or Sunday, and would mean the elections taking place on a different day in each four year cycle, which may not be considered desirable.

The proposed solution

16. Members’ views have already been canvassed on the best day to hold the ordinary elections of Common Councilmen, should this be changed. The consensus was that the best day would be a Wednesday – this would mean that any poll would be held on a Thursday, which would be the day most familiar to the voting public.
17. The proposal is, therefore, that the ordinary elections of Common Councilmen would normally be held on the third Wednesday in March in every fourth year. However, if this would involve the notice of ward election being published before 16 February in any given year, then these elections would instead be held on the fourth Wednesday in March.

⁵ This is by virtue of section 7(3) of the Act of Common Council of 14 July 1960 (as substituted by section 5 of the Act of Common Council of 6 November 2008).

18. An alternative option would be to hold the ordinary elections of Common Councilmen on the fourth Wednesday in March in every fourth year, but move this forward to the third Wednesday in March if this would involve any poll being held on the Thursday adjacent to Good Friday.
19. Whether the elections were normally held on the third or fourth Wednesday in March, under the above rules they would have to be switched six times in the remainder of this century – so there is nothing to choose between the two options on this basis. However it is preferable from an administrative point of view (in terms of fixing the membership of committees, etc) that the elections generally happen earlier in March rather than later.
20. Although under the proposed system there would be more variation in the date of the ordinary elections of Common Councilmen than at present, it would still be within defined parameters. The dates of future elections could be calculated a long time in advance.
21. If a revised date for the ordinary elections of Common Councilmen is agreed for next year, then using the above system these would take place on Wednesday 20 March, and any poll would be held on Thursday 21 March. The published dates for a number of committees and the Court in 2013 would have to be changed as a result but future committee and Court dates would be scheduled to take account of this change.
22. There will be rare occasions when holding the ordinary elections of Common Councilmen on the third Wednesday in March would involve the notice of ward election being published before 16 February, but switching to the fourth Wednesday in March would involve any poll being held on the Thursday adjacent to Good Friday. The next time this will happen is 2073. It is therefore proposed that in these circumstances the Town Clerk be authorised to decide upon an alternative date in consultation with the Lord Mayor. The alternative date would have to be published, and reported to the Court of Common Council, at least six months in advance.

Bill for an Act of Common Council

23. The annexed Bill gives effect to the changes outlined above.

Conclusion

24. There are identified problems with the current timetable for the ordinary elections of Common Councilmen. In some years (including 2013) candidates relying on the qualification that they are registered in a ward list must be registered in two successive ward lists – the ward list in force in the year before the election, as well as the ward list in force at the time of the election. The timetable also creates unnecessary complications regarding those persons who are entitled to subscribe nomination papers. These problems can be addressed by moving to a system whereby the elections are held in every fourth year on either the third Wednesday in March, or the fourth Wednesday in March, or in certain circumstances on another date to be determined by the Town Clerk in consultation with the Lord Mayor. This will also avoid proximity with the Easter break. The required changes can be achieved through the proposed Act of Common Council.

All which we submit to the judgement of this Honourable Court

DATED this 7th June 2012

SIGNED on behalf of the Committee

Mark Boleat
Chairman of the Policy and Resources Committee

To be considered at the Court of Common Council

2012

A BILL

For an Act of Common Council to –

Change the date of the ordinary ward elections of Common Councilmen of the City of London;

Make incidental and consequential changes to the term of office of Common Councilmen;

Repeal the Act of Common Council made and passed on the 22nd day of May 2003.

WHEREAS:-

- (1) From time immemorial there has existed and still exists in the City of London (“the City”) a Common Council consisting of the Lord Mayor, Aldermen and Commons in Common Council assembled and the Common Council have made, passed, ordained and established divers Acts, Ordinances, Rules, Orders and Regulations for the regulation and good government of the City and its Liberties as to them from time to time has been found necessary and expedient;
- (2) By an Act of Common Council made and passed on the 22nd day of May 2003 it was enacted that as from the coming into force of that Act ordinary ward elections in relation to the whole number of Common Councilmen shall take place on the second Friday of March in 2004; 2005; and every fourth year after 2005;
- (3) It is desirable that ordinary ward elections in relation to the whole number of Common Councilmen shall take place on a date determined in accordance with this Act;
- (4) It is also desirable to make certain incidental and consequential changes to the term of office of Common Councilmen;
- (5) His late Majesty King Edward the Third by his Charter made and granted to the City in the fifteenth year of his reign afterwards confirmed and ratified by Parliament did (amongst other things) grant that if any customs in the City before that time obtained and used were in any part hard or defective or any things in the City newly arising in which no remedy had been ordained should need amendment the Mayor and Aldermen of the City and their successors with the assent of the Commonalty of the City might put and ordain thereto fit remedy as often as it should seem expedient to them so that such ordinance should be profitable to the King and to the citizens and to all other liege subjects resorting to the City and agreeable also to reason and good faith.

BE IT THEREFORE and IT IS HEREBY ENACTED ORDAINED AND ESTABLISHED by the Right Honourable the Lord Mayor, the Right Worshipful the Aldermen and the Commons of the City of London in Common Council assembled and the authority of the same **AS FOLLOWS:**

Interpretation

1. In this Act –

“elections” means ordinary ward elections in relation to the whole number of Common Councilmen.

Ordinary ward elections in relation to the whole number of Common Councilmen

2. (1) Elections shall take place in 2013 and every fourth year after 2013.
- (2) In any year that elections are required under subsection (1) then subject to subsection (3) those elections shall take place on the third Wednesday of March.
- (3) Where holding elections on a date determined in accordance with subsection (2) would require notice of a ward election to be published before 16 February in that year then subject to subsection (4) those elections shall take place on the fourth Wednesday of March.
- (4) Where holding elections on a date determined in accordance with subsection (3) would require any poll to be held on the Thursday adjacent to Good Friday then those elections shall take place on a date determined by the Town Clerk in consultation with the Lord Mayor.
- (5) Where under subsection (4) the Town Clerk determines the date on which elections shall take place that date shall be published and reported to the Court of Common Council no later than six months in advance of those elections.

Term of office of Common Councilmen

3. Any Common Councilman shall, unless he resigns his office or it otherwise becomes vacant, cease to hold office at midnight on the day immediately preceding the day on which elections take place.

Repeal

4. The Act of Common Council made and passed on the 22nd day of May 2003 is hereby repealed (except in relation to its repeal of certain provisions of an Act of Common Council made and passed on the 14th day of June 1984).

Commencement

5. The provisions of this Act shall come into force on the day on which it is made and passed as an Act of Common Council.