

<b>Committees:</b>	<b>Dates:</b>
Informal Meeting of the Resource Allocation Sub Committee – <i>for discussion</i>	8 June 2020
Policy and Resources Committee – <i>for decision</i>	11 June 2020
Court of Common Council – <i>for decision</i>	18 June 2020
<b>Subject:</b> Annual Appointment of Committees and Consequential Matters	<b>Public</b>
<b>Report of:</b> The Town Clerk	<b>For Decision</b>
<b>Report author:</b> Greg Moore	

### Summary

When the COVID-19 outbreak first became significant in the UK and following related directives from HM Government, the City of London Corporation undertook to suspend the vast majority of formal decision-making meetings, with decisions being taken in the meantime in accordance with the City Corporation’s urgency procedures. This suspension included the April meeting of the Court of Common Council, which is when the constitution of committees and election or appointment to those committees is made for the ensuing municipal year. This accorded with the wider national approach in respect of the deferral of local government and Mayoral elections for the forthcoming year. It also aligned with *The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020* (“the Regulations”) governing meetings, which came into force on 4 April 2020.

As part of the consequential considerations arising from that cancellation, it was determined that the membership of committees should be held over unchanged until April 2021. This decision (and attendant implications, such as arrangements for Chair / Deputy Chair elections, appointment of sub-committees, and so on) was taken in view of the uncertainty at that time concerning the impact of the pandemic and the possible limitations in returning to a normal meeting cycle.

However, since that time, the introduction of virtual meetings, using technology such as Microsoft Teams and Zoom, has enabled both Committees and the Court of Common Council to resume scheduled meetings. Consequently (and further to questions at the May meeting of the Court of Common Council), this report now seeks formal approval to undertake the annual appointment of Committees for 2020/21 at the July 2020 meeting of the Court, thereby undoing the previous resolution (referred to as “the April resolution” for ease, hereafter) determining that committee membership be rolled forward and maintained for the current year. The report also sets out the implications of this decision on the other aspects of the April resolution, such as term limits and the election of committee chairmen and deputy chairmen, as well as how the election process will be managed and other relevant items.

### Recommendation

That:

1. It be confirmed that the annual appointment of committees for 2020/21 take place at the 16 July 2020 meeting of the Court of Common Council and the provisions of sections 2-9 of the resolution previously approved by the Court, set out at Appendix 1, be revoked effective 12.59pm on 16 July 2020.
2. It be confirmed that the annual elections of Chairs and Deputy Chairs and the appointment of sub-committees will take place at the first meeting of each Committee following the July Court.
3. Consideration be given to the arrangements for ballots to be conducted at the July Court meeting, as set out in paragraphs 34-40.
4. No change be made in respect of the provisions pertaining to the Chief Commoner.

## **Main Report**

### **Background**

1. In March 2020, in response to the emerging COVID-19 pandemic, Her Majesty's Government took the decision to encourage (and subsequently enforce) restrictions around travel and association in relation to individuals not identified as "key workers" playing a role in the immediate response to the crisis.
2. One of the many consequences of this was that City Corporation committees were physically unable to meet. Due to the existing provisions of Local Government legislation at that time, a physical presence was required at meetings in order for a quorum to be constituted and decisions made.
3. Whilst it was anticipated that forthcoming emergency legislation was likely to incorporate provisions to facilitate virtual meetings, a swift decision was necessary in respect of the immediate course of action, with it immediately apparent that it would not be feasible within the confines of existing movement restrictions and legislation for the Court of Common Council to meet in April.
4. The April meeting of the Court, as specified by Standing Orders, is when the constitution of committees and election or appointment to those committees is made for the ensuing year. Therefore, the Court would be unable to appoint its Committees, nor elect and appoint to them for the 2020/21 municipal year.
5. A contingency was, therefore, required to ensure that business could continue effectively beyond the scheduled date of the April 2020 Court of Common Council meeting. Given uncertainty about the length of time during which restrictions and effects on normal activities may be in place, together with limited resource with which to work through immediate implications, the Policy and Resources Committee was minded that the pragmatic response in the circumstances would be to roll forward existing arrangements in respect of committee memberships for a twelve-month period. This approach aligned with that being taken elsewhere and which is now set out in new Regulations issued by Government.
6. It was recognised that this was an unprecedented step, caused by unforeseen circumstances, which would have many implications. It was also noted, however,

that the present extraordinary conditions may subside during the year, to the extent that the Court and Committees may be able to resume normal practice.

7. Since then, a number of committees have met virtually – using either Microsoft Teams or Zoom technology – including the Court of Common Council on 21 May 2020. Now that virtual committee meetings have become well-established, officers were asked to explore how the annual meeting of the Court of Common Council could be brought forward to July 2020, with the relevant implications also clarified.
8. Appendix 1 sets out the resolution passed by the Court which dealt with the suspension of the April meeting and the attendant consequential matters. Holding the annual appointment of committees in July will require the undoing of several of these resolutions and the report sets these out for the sake of clarity and to seek guidance where an option is open to Members to determine a preferred outcome.
9. This paper is presented first to Members of the Resource Allocation Sub-Committee in accordance with the undertaking made at the May Court meeting and with reference to that Sub-Committee's current capacity as a sounding board. There is no formal decision-making role for the Sub-Committee, but views are sought to identify potential omissions or areas that require further consideration ahead of formal decision-making.

**Membership of Committees and Terms of Office (ref: s. 3, 4, 5, 6 & 9, April resolution)**

10. One of the effects of the suspension of the April Court was that membership of all Committees – both Ward and non-Ward – would remain the same for the forthcoming year and that service would not count towards a Member's term limit.
11. Appointments made for the 2019/20 municipal year would continue for the 2020/21 year and until the April 2021 Court, with Standing Order 23(5)(a) not applying to the term of office of Members serving on Ward Committee appointments and service on those non-Ward Committee appointments made under Standing Order 24 being treated as an extension of the current year (i.e. not treated as an additional year of service).
12. This was on the basis that there would be no annual appointment of committees until April 2021. Consequently, should Members agree that the annual appointment process can now take place at the July Court, it follows that this constitutes a "new" year (i.e. not simply a prolonging of 2019/20, as was previously the case) and that service for the coming year shall be treated in the normal fashion, i.e. contributing towards term limits and reckonable service. That is to say that the period of service from the July meeting until the next annual meeting (currently scheduled for 15 April 2021) shall be treated as one year.
13. For the sake of clarity, it should be noted that service that has (or will have) occurred between April and the July Court meeting will not be counted, consistent with the terms of the April resolution (i.e. the three months shall continue to be treated as part of an extended 2019/20 term).

14. Should Members approve the proposals, the annual appointments process for 2020/21 will be undertaken in as close to the usual way as possible. Ward Deputies will be asked to re-confirm previous submissions in respect of Ward Committee appointments, and the usual letter advertising non-Ward Committee vacancies will be circulated with a deadline for expressions of interest, to allow for names to be published on the Summons pursuant to Standing Order 24(2).
15. In view of the virtual nature of the Court meeting, the balloting process will need to be undertaken in a different fashion. This is addressed later in this report.

#### **Implications for the 2021 Annual Appointments Process**

16. In the context of recent considerations around a delay to the 2021 City-wide elections, Members may also wish to give consideration to the timing of the next annual Court and the span of the current year.
17. As mentioned earlier, in the event of any resolution to the contrary, the 2020/21 year (beginning 16 July 2020) would end on 15 April 2021.
18. This, self-evidently, reflects a slightly shortened year compared to the norm, but would (in usual times) align well with the customary approach to allow for committee appointments to take place after the City-wide elections.
19. However, given the likelihood that the date of the 2021 City-wide elections will be moved, Members may wish to give consideration as to whether the start and end dates of the current year should be altered to provide a better fit: for instance, if the elections move to July 2021 then, should there be significant turnover of Members, there would in effect be a significant number of ballots at both the April and July meetings, which may not be desirable.
20. It would, arguably, be precipitate to make such a decision at this time, prior to any determination as to the timing of the elections. In any case, given the consequential impacts on following year cycles, it may also be undesirable regardless; however, the issue is raised here for the sake of completeness and awareness.

#### **Election of Chair/Chairman and Deputy Chair/Chairman (ref: s7 & 8, April resolution)**

21. Following the annual appointment of committees at the July Court, the provisions of Standing Orders shall require the election of Chairs and Deputy Chairs in the normal fashion at the next meetings of the several committees.
22. For the sake of clarity, it should be noted that where a “handover” of Chairs has already taken place through the resignation mechanism established through the April resolution, an election shall still be required and the rights of the outgoing Chair to serve as Deputy Chair for the coming year shall not be affected.
23. As with committee memberships, service between April 2020 and the July Court shall not count towards term limits; however, service from July until the next annual Court shall be treated as one year.

### **Appointment of Sub-Committees**

24. As with the election of Chairs and Deputy Chairs, the appointment and membership of Sub-Committees shall also proceed in the usual manner at the first committee meeting following the Court meeting.

### **Committee Terms of Reference (ref: s3, April resolution)**

25. The annual meeting is also the occasion on which the Committees are reconstituted formally and their Terms of Reference set, with various amendments considered.
26. In the absence of the opportunity to discuss them at the April meeting and, in keeping with the pragmatic approach taken, it was agreed the Terms of Reference of all Committees should remain as at the date of the last meeting of the Court (i.e. 5 March 2020).
27. However, should the annual meeting proceed in July, then the “White Paper” (the document which presents the various Terms of Reference, including proposed amendments) shall also be considered at that meeting.
28. The Policy & Resources Committee has already considered and endorsed a number of proposed amendments to Terms of Reference, as follows:
  - amendments to the wording of the Education Board’s terms of reference to reflect more accurately its role (Appendix 2).
  - a change to the quorum of the Board of Governors of the City of London Freemen’s School, together with an amended descriptor in respect of co-opted Governors (Appendix 3).
  - a proposal from the Barbican Residential Committee in relation to its constitution and quorum (Appendix 4).
  - a minor addition to the Terms of Reference of the Policy & Resources Committee, to make explicit its functions in respect of Business Improvement Districts as approved by the Court in October 2014 (Appendix 5).
29. The Committee agreed to endorse each of these for submission to the Court through the White Paper. These will, therefore, be incorporated within the submission to the Court for consideration in July.
30. Members also considered and opposed a request from the Markets Committee to reinstate the wording removed from its terms of reference in April 2019. This matter was subsequently resolved, as reported at the May meeting of the Court of Common Council, and the amendment is no longer sought.
31. There is now a further change to consider in relation to Terms of Reference, which has been submitted by the Police Authority Board. This is set out at Appendix 6 and proposes a name change, the introduction of term limits, and clarification around the rights of the two external Members.

### **The Chief Commoner (ref: s10, April resolution)**

32. Through the April resolution, a one-year amendment to Standing Order 18(3) was agreed, to allow Deputy Brian Mooney to take office.
33. The holding of the annual Court in July has no impact on this and there is no reason that the usual arrangements (i.e. the election of the next Chief Commoner in October 2020, with them taking office in April 2021) should not continue. It is, therefore, recommended that no change is made to this.

### **The Ballot / Election Process**

34. The current provisions of Standing Orders provide that ballots are taken at the relevant Court meeting itself, with the general practice being that hard-copy ballot papers are distributed to Members as they enter the Court. Ballot papers are then completed and collected during the meeting, with the count conducted directly afterwards and the results circulated by e-mail and printed in the Summons for the next meeting.
35. Clearly, the virtual nature of the meeting means that this traditional approach is unlikely to be practicable for the July Court meeting, so an alternative arrangement (with accompanying amendments to Standing Orders) needs to be considered.
36. The option that most closely replicates this arrangement would be for electronic voting to take place at the July meeting itself. A number of online voting solutions, including services provided by external suppliers, are currently being explored to provide the best technical solution for electronic voting.
37. Consideration has been given to whether it would be possible to allow for the issuing of ballot papers in advance of the meeting, given that the names of those Members in nomination are known in advance and published with the Summons, with a set date for completion, allowing for the results to be tallied prior to (and announced) at the Court.
38. However, it is the case that the appointments are made by the Court itself and not by individual Members, with the vote acting as a mechanism for the Court to make the decision (and, in that sense, is no different to any other decision, albeit that a secret ballot process has been adopted). It follows that the usual public law duties arise and the Court must take into account all relevant matters and individual Members may not pre-determine their decision (as opposed to being predisposed to voting in a particular way).
39. It is, therefore, considered that the introduction of a “postal vote” would offend these principles, as a Member should not have made up their mind prior to the debate at that item (albeit that such debates are extremely rare) and the actual vote, and voting ahead of time offends this principle. In particular it would deprive such Members of the ability to take into account anything which occurred between submitting their vote and the actual vote which may be relevant to their decision, such as the death, serious illness or injury or arrest of a candidate. The position is not analogous to postal voting in local government and parliamentary elections; nor is it analogous to shareholder votes in company law.

40. With reference to local government legislation generally, Paragraph 39 of Schedule 12 of the Local Government Act 1972 provides that “all questions coming or arising before a local authority shall be decided by a majority of the members present and voting thereon at a meeting of the authority”. “Presence” is, of course, now extended to virtual presence where the conditions in the Meetings Regulations are satisfied but this does not allow a “postal vote”. It should be noted that Schedule 12 does not strictly apply to the City Corporation; however, any decision to depart from the norm (as well as the longstanding practice of the Corporation) should pay particular mind to this.
41. Suitable technology could be used to ensure the secrecy of the ballot, as well as to provide surety that only those eligible to vote (i.e. Members present at the meeting) do so. This would be managed through a link, circulated by email to those in attendance at the appropriate part of the meeting, which would take Members to electronic ballot papers which would be completed and returned.
42. To ensure that all Members are comfortable with the voting technology and that any potential technical issues are resolved in good time ahead of the meeting, a series of test ballots will be undertaken which Members will be encouraged to participate in in the run-up to the July meeting.
43. As an additional contingency, it is also suggested that explicit approval be granted in respect of a back-up procedure on the day, in the event that there is a server issue or similar which prevents the voting from working for some (or all) Members. This would comprise the submission of votes directly by email (rather than web-hosted ballot papers) to a single point of contact. Members would be asked to trust to the discretion of the individual member of staff and, by limiting returns to a single individual, this would help to ensure secrecy so far as is possible. The individual could anonymise and collate the returns to allow for verification.

### **Conclusion**

44. This report asks Members to consent to the holding of the annual appointment of committees at the 16 July 2020 meeting of the Court of Common Council. Confirmation is sought as to the treatment of terms and the balloting process to be adopted, as well as in respect of the various amendments to committees’ Terms of Reference.

### **Appendices**

- **Appendix 1:** Resolution of the Court of Common Council, April 2020
- **Appendix 2:** Amendments to the wording of the Education Board’s terms of reference
- **Appendix 3:** Amendments to the Board of Governors of the City of London Freeman’s School’s terms of reference
- **Appendix 4:** Amendments to the Barbican Residential Committee’s terms of reference

- **Appendix 5:** Amendments to the Policy & Resources Committee's terms of reference
- **Appendix 6:** Amendments to the Police Authority Board's terms of reference

**RESOLUTION: COURT OF COMMON COUNCIL**

**POSTPONEMENT OF THE ANNUAL APPOINTMENT OF COMMITTEES AND CONSEQUENTIAL MATTERS**

RESOLVED: That:-

1. In light of the current Coronavirus Pandemic, the meeting of the Court of Common Council scheduled for Thursday 23 April 2020 be abandoned.
2. Notwithstanding the provisions of Standing Order 21, the annual appointment of committees of the City of London Corporation due to take place at the meeting of the Court of Common Council originally scheduled for Thursday 23 April 2020 will instead take place at the meeting of the Court scheduled for Thursday 15 April 2021.
3. The Membership of all Committees and their Terms of Reference will remain as at the date of this resolution.
4. A Member who would otherwise, due to the expiry of their term of office in accordance with Standing Order 24(1)(a), retire from a Committee at the meeting of the Court originally scheduled for 23 April 2020, will instead retire at the meeting of the Court scheduled for 15 April 2021; and the Member's term of office on the relevant Committee is extended accordingly.
5. A Member who would otherwise, due to expiry of their term of office in accordance with Standing Order 24(1)(a), retire from a Committee at the meeting of the Court scheduled for 15 April 2021 will instead retire at the meeting of the Court scheduled for April 2022; and the Member's term of office on the relevant Committee is extended accordingly. The same shall apply *pari passu* for Members due to retire from Committees in 2022 and 2023 respectively.
6. Service on Ward Committees during the 2020/21 municipal year shall not count for the purposes of Standing Order 23(5).
7. In view of there being no appointment of Committees in 2020, the provisions of Standing Orders 29(4) and 30(5) will not apply and Committees will therefore not elect Chairmen and Deputy Chairmen in 2020. The Members holding office as Chairmen and Deputy Chairmen in 2019-2020 will continue to hold those offices until the first meeting of the Committee after the appointment of Committees in 2021.
8. Should a Chairman notify the Town Clerk of their resignation from that office prior to the appointment of Committees in 2021, then the Deputy Chairman will act with full power and authority as Chairman until the next regular election in 2021, and the provisions of Standing Order 29(2) will not apply. The late Chairman will, providing they remain in Common Council and a member of the Committee, become the de-facto Deputy Chairman as would normally be the case under Standing Order 30(3)(a). In the absence of the late Chairman, the most recent past Chairman on the Committee still serving shall act in this fashion; in the absence of any past Chairman, this shall be the most senior Member on the Committee.
9. For the purposes of Standing Order 29(2) the period from the appointment of Committees in 2019 to the appointment of Committees in 2021 shall count as one year.
10. Notwithstanding the provisions of Standing Order 18(3), Deputy Brian Mooney will assume the office of Chief Commoner at one minute past midnight on 23 April 2020 and serve until the meeting of the Court scheduled for 15 April 2021, with that Standing Order suspended for the 2020-21 municipal year.
11. The provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020,

governing meetings which concern local authority meetings, shall be adopted and applied to all City Corporation Committees and Sub-Committees.