

Report – Policy and Resources Committee

Common Council Elections Change of Date from March 2021 to March 2022 – Bill for an Act of Common Council

To be presented on Thursday, 10th September 2020

*To the Right Honourable The Lord Mayor, Aldermen and Commons
of the City of London in Common Council assembled.*

SUMMARY

Due to the COVID-19 outbreak in the United Kingdom, Her Majesty's Government passed legislation to postpone various elections, including local government elections in England due in May 2020, until May 2021. The provisions of this legislation do not apply to the City of London Common Council elections (referred to in this report as "City elections" due in March 2021).

Given the national position and the uncertainty about the length of time during which the restrictions and effects on normal activities may be in place, the Policy and Resources Committee has considered the position in respect of the City elections. This included the possibility of holding them on the same day as the rescheduled elections for the London Mayor and the Greater London Assembly (GLA) and the merits of postponing them to a later date in 2021 or until March 2022.

Holding the City elections on the same day as the London Mayor and GLA elections presented a number of complications in relation to the hours of poll, the location of polling stations and conducting the count and for these reasons the Policy and Resources Committee at its meeting on 7 May 2020 concluded that the City elections should be held on a separate date to the London Mayor and GLA elections which are now taking place on 6 May 2021.

The Policy and Resources Committee was also mindful of the adverse impact the COVID-19 pandemic is having on the City Corporation's ability to compile the Ward Lists, complete the database of businesses with the relevant degree of accuracy, undertake canvassing activities and the planned schedule of promotional activities planned to encourage businesses and residents to register to vote ahead of the 2021 City elections. It was also mindful that, come the autumn, businesses were likely to focus on returning to the workplace and new ways of working, therefore, voter registration was unlikely to be considered a priority. For these reasons, the Policy and Resources Committee at its meeting on 9 July 2020, concluded that the City elections should be postponed until March 2022.

In order to effect the proposed change of date, an Act of Common Council is required. In accordance with Standing Order No. 46, the terms of the Bill for an Act of Common Council must be considered by the appropriate Committee(s) and be settled by the

Recorder of London prior to its submission to the Court of Common Council for its first, second and third reading. The draft Bill as set out in the appendix to this report was subsequently approved by the Policy and Resources Committee under urgency procedures to allow it to be submitted to the Recorder and presented to the Court in September for its first reading and second reading. Subject to the approval of the Court to the change of date and the first and second reading of the associated draft Bill for an Act of Common Council, the Bill will be submitted to the next meeting of the Court on 8 October 2020 for its third and final reading.

RECOMMENDATION

That approval be given to:-

1. The date of next ordinary Common Council elections being postponed from 18 March 2021 until 23 March 2022, with successful candidates serving a three-year term;
2. The terms of the Bill for an Act of Common Council to effect the change of date as set out in the Appendix to this report.

MAIN REPORT

Background

1. The City elections are due to be held on 17 and 18 March 2021. Due to the COVID-19 outbreak in the United Kingdom, legislation has been passed to suspend all local government elections until May 2021. These provisions do not apply to the City elections.
2. Given the national position, the uncertainty about the length of time during which the restrictions and effects on normal activities may be in place, the Policy and Resources Committee has considered the City Corporation's position in respect of the City elections. This included the possibility of holding the City elections on the same day as the rescheduled elections for the London Mayor and GLA on 6 May 2021 as well as the merits of postponing the elections to a later date in 2021 or until March 2022.

Holding City Elections on the same day as the rescheduled London Mayor and GLA Elections

3. There are several complicated factors associated with rescheduling the City elections to take place on the same day as the London Mayor and GLA elections. For example:-
 - **Hours of Poll:** Polling stations for the GLA elections are open between the hours of 7am and 10pm. The hours of poll for the City-wide elections are between 8am and 8pm. These hours of poll are set by legislation and changing to coterminous hours would require primary legislation. Retaining separate polling hours would have an impact on residents who are eligible to vote in both elections as they would not be able to cast their vote in the City elections if they turn up to vote outside the City hours of poll.

- **Location of polling stations:** Residents are able to vote at one of four polling stations for the GLA elections, 26 polling stations are used at the City elections, which would mean that all residential electors would be required to attend two locations in order to vote in both the GLA and City elections. This would be onerous and is highly likely to cause confusion. Whilst consideration could be given to using City polling stations for the GLA elections, regulations require any change to polling districts, polling places and polling stations to undergo a comprehensive review. A review of this nature would usually take about six months and would have an impact on the polling district boundaries for all future elections until the next review, which is due to take place in 2024. The last comprehensive review was conducted in 2019 and it concluded that no change was required.
 - **Wardmote and declaration of results:** The counts for City elections take place in the Ward, at the polling station, after the close of poll. For various reasons this would not be possible if the GLA elections were held in the same location for example, where multiple elections are held in the same location, the ballot boxes for those elections would need to be opened at the same time in case ballot papers have been placed in the wrong box. This is further complicated by the fact that the GLA boxes cannot be opened until 8am the following morning.
4. For these reasons, amongst other things, the Committee concluded the City elections should not be combined with the GLA elections.

Postponing until a later date in 2021

5. Detailed consideration was given to postponing the City elections to a later date in 2021. However, the Policy and Resources Committee acknowledged that whilst it would allow for the completion of the GLA election timetable before publication of the Notice of Election for the City elections, timing was such that it would not address the issues relating to compilation of the Ward Lists, complete the database of businesses and undertaking the annual canvassing activities and the planned schedule of promotional activities to encourage businesses and residents to register to vote ahead of the 2021 elections.

Impact on Voter Registration and publication of Ward Lists

6. All elections held between February 2021 and February 2022 will use the Ward Lists compiled in Autumn 2020 to identify the eligible voters. The compilation of the Ward Lists will be impacted by the COVID-19 pandemic.
7. The City Occupiers Database team would usually carry out a survey of the businesses in the City of London by visiting businesses between February and July. This activity has been interrupted by the COVID-19 pandemic. Since the beginning of lockdown the City Occupiers Database team has been working remotely to compile an accurate, up to date Ward list by emailing existing business contacts and by other means e.g. use of the Companies House website and data held by the City Corporation's Business Rates department. There has however been a reduction of 176 businesses across the Wards surveyed after the beginning of lockdown on the City Occupiers database. In comparison there

was an increase of 97 businesses across the Wards surveyed prior to lockdown. In 2019 7,615 businesses were eligible to appoint voters.

8. Currently the City Occupiers database team hold email addresses for 74% of businesses. Whilst forms have been sent in the post to the remaining 26% of businesses, there has been a low response rate due to the pandemic and businesses working from home. Therefore, the data which is needed to contact businesses during the canvass, will not be complete.
9. The timetable for the preparation and publication of the Ward Lists is fixed as set out in section 7 of the City of London (Various Powers) Act 1957 as amended by the City of London (Ward Elections) Act 2002. Any changes to this legislation would require an Act of Parliament. All businesses and residents must be written to prior to 1 September each year and must respond by 16 December of that year.
10. Whilst employees can now return to their place of work, employers need to ensure that any return is COVID-19 secure and in accordance with Government guidance. It includes the management of any the risks associated with transmission, ensuring that employees can come into the workplace safely taking account of a person's journey, caring responsibilities, protected characteristics, and other individual circumstances.
11. In addition, the Coronavirus Job Retention Scheme will be in place until the end of October 2020 according to current Government policy. Businesses are encouraged to ensure that the persons nominated to vote by the company reflect the make-up of the organisation as a whole, and should include employees from the chief executive to entry-level employees and even regular contactors should be considered so that the electorate represents the full, diverse, range of the City's workforce. Due to the short amount of time between the return of employees to work at the end of the Job Retention Scheme period and the date that the forms need to be returned by the businesses, organisations may find it difficult to appoint voters who are representative of all levels of seniority in their business. In addition, businesses will be focussing on a return to the workplace and new ways of working, therefore, voter registration is very unlikely to be considered a priority.
12. The qualifying date to be included on the Ward List is 1 September in the year preceding the year of the Ward election. In usual circumstances virtual offices do not have any voting rights, as qualifying bodies must ordinarily occupy as owner or tenant the whole or part of any premise in that ward. 'Occupying' means to occupy by personal physical presence for the purpose of carrying on any trade, business, profession or other occupation or calling. The right to appoint voters then depends on the size of the workforce. 'Workforce' means all those persons whose principal or only place of work on the qualifying date is ordinarily those premises occupied by the qualifying body. Another category of person who may be appointed as a voter by a qualifying body is employees whose principal or only place of work is within the City and has been for the whole of the twelve months preceding that qualifying date.

13. Legal advice has been sought regarding the qualifications to be appointed as a voter on the Ward List given the current circumstances and enforced working from home. The Comptroller and City Solicitor's Office has advised that unless particular evidence is received to the contrary, and subject to the overall requirements under section 2 of the City of London Wardmote Book being satisfied, the Town Clerk can assume that so long as it is intended that workers will return to the premise in question as their principal or only place of work following the relaxation of lockdown then they should be included in the workforce size and the calculation for the number of voters that each business can appoint. This is consistent with the approach taken towards periods of absence due to illness, holiday or temporary work commitments elsewhere on the qualifying date, which does not affect eligibility to vote.
14. During the canvass period for both the electoral register and the ward lists, house to house enquiries are required for residential properties who have not responded to either the initial form or the first reminder. This activity usually takes place from mid-October. Given the current situation it is not yet known whether this activity will be able to be undertaken in the usual way, as the health and safety of residents and staff must be prioritised. Should canvassing take place it would require the provision of PPE to canvassers who will be visiting residents. It should also be noted that despite the easing of restrictions, some residents will be mindful of reports of a second wave and will be uncomfortable with calls of this nature. In 2019, 3,390 residential properties were visited in person which resulted in 1,650 responses from residential properties.
15. It is worth noting that new Regulations are due to come into force which set a revised date for Electoral Registration Officers in Great Britain to publish their revised electoral registers for 2020 from 1 December 2020 to 1 February 2021. This would enable house to house enquiries for the electoral register to be carried out at a later date. However, this legislation does not apply to the canvass for the Ward List.
16. Consideration has been given to contacting residents by phone instead of house to house visitation. The Electoral Services Team currently only holds 1,030 phone numbers for residents, so this would not be sufficient to replace household visits. Whilst emails will be sent to residents as part of registration activities only 3,850 email addresses for residents are currently held out of 7,137 electors on the electoral register.

Pre-election publicity

17. At its meeting on 20 February 2020, the Policy and Resources Committee approved a schedule of promotional plans to encourage businesses and residents to register to vote ahead of the 2021 elections.
18. Planned activities comprised of a digital communications campaign, which would have included a YouTube video promoting the City, voter registration and the elections; a social media campaign; and email communications to business contacts before and during the registration period. The Committee also approved paper communications publicity, including production of leaflets, flyers and business cards; an advertising campaign in City AM, City Matters and

Corporation publications (City Resident, CityView, ward newsletters and Livery Briefing); and creation of a pocket card with fixtures for Euro 2020. Due to the current situation and uncertainty about the date of the election, it has not been possible to proceed with these activities.

19. In addition to these activities, a promotional campaign to encourage a diverse range of candidates to stand for the 2021 elections was planned in the form of an early evening reception to be held during Inclusion Week (28th September – 4th October 2020). This would have enabled the City Corporation to brief and engage a diverse range of networks operating in businesses across the City. A similar event was held in 2016, where emphasis was placed on the City Corporation welcoming candidates from diverse backgrounds. Social distancing and other restrictions are still in place and has prevented this from progressing. A more high-profile advertising campaign was planned on London Underground sites within the City. This has also not been possible, nor would the use of London Underground sites be as far reaching as hoped in the current situation.
20. The Policy and Resources Committee acknowledged the importance of the compilation Ward List and the fact that despite the best efforts of the Electoral Services and City Occupiers Database team, the Ward Lists published in February 2021 will be incomplete and may not be accurate. As a result of this, and the other reasons set out above, the Committee concluded that the March 2021 election should be moved to March 2022. The change of date would enable the canvass to take place without the current restrictions. It is also worth noting that in some Wards all or most voters are business voters. This means that there will be a disproportionate impact on the democratic process in those Wards compared to those that are a residential Ward. A move to 2022 would also give businesses the opportunity to ensure that the voters they appoint are representative of their organisation.
21. Across all Wards, the 2020 Ward Lists consist of 12,716 business voters and 6,484 residential voters and a total of 19,200.

Draft Bill for an Act of Common Council

22. Should Members be supportive of the proposed change of date to 23 March 2022, a Bill for an Act of Common Council is required to alter the date of the City elections. In accordance with Standing Order No. 46, the Bill must be considered and approved by the appropriate Committee(s) and settled by the Recorder of London before it can be considered by the Court of Common Council for its first and second reading. A third and final reading at a subsequent meeting will also be required to complete the process.
23. In order not to delay setting this matter unduly, the draft Bill as set out in the appendix to this report has been approved by the Policy and Resources Committee under the urgency procedures to allow for it to be submitted to the Recorder for settling ahead of its consideration by the Court at the first and second reading stage. Subject to the approval of the Court, the draft Bill will then need be submitted to the next meeting of the Court for its third and final reading.

Conclusion

24. Elections to the Court of Common Council are due to be held in March 2021. It is acknowledged that the pandemic has presented significant challenges in preparing a complete and accurate Ward List for the elections. Additionally, the approved programme of publicity and events to be held in the period preceding the City election to both promote registration and to encourage a diverse range of candidates in the election has been adversely affected and it has not been possible to carry out the activities. The Policy and Resources Committee is therefore proposing that, for the reasons set out in this report, the date of the next ordinary Common Council Elections be postponed to 23 March 2022 and that a Bill for an Act of Common Council be approved to effect the change accordingly.
25. It is worth noting that Public Health England guidance is likely to be in effect for all elections. As part of this the Government is using localised lockdowns to control increases in COVID-19 cases in the affected areas. Elections in the City of London are especially vulnerable to this policy, as turnout would be impacted not only by a lock down in the City of London itself but also by lockdown in any commuter areas as well.

Appendices

- Draft Bill for an Act of Common Council

All of which we submit to the judgement of this Honourable Court.

DATED this 28th day of August 2020.

SIGNED on behalf of the Committee.

Deputy Catherine McGuinness
Chair, Policy and Resources Committee

To be considered at the Court of Common Council

2020

A BILL

For an Act of Common Council to –

Postpone the next ordinary ward elections of Common Councilmen of the City of London from 2021 until 2022 and to suspend all by-elections to fill any casual vacancy in the office of Common Councilman arising in the interim.

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 13th day of September 2012 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 in March in 2013 and every fourth year after 2013;
- (3) By an Act of Common Council made and passed on the 4th day of October 1973 it was enacted that if any Common Councilman shall die, a precept shall be issued for the election of a duly qualified person in their place;
- (4) Section 59 of the City of London (Various Powers) Act 1900 provides that if any Common Councilman shall resign, the office shall forthwith be declared to be vacant and the same may be filled up and the same steps shall be taken and the same precepts or notices issued as if the office had become vacant by the death of the holder thereof;
- (5) By section 9 of the City of London Municipal Elections Act 1849 and certain other enactments a Common Councilman shall in specified circumstances immediately become disqualified and shall cease to hold office and the same shall thereupon forthwith be adjudged to be vacant;
- (6) There is at present a pandemic of the novel coronavirus Covid-19 that has caused Parliament to postpone various elections including all local government elections in England until May 2021 and it is not yet known when

it will be safe to hold an election or what impact the pandemic will have on the compilation of the ward lists to be in force from 16 February 2021;

- (7) 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 –

“Act of 1973” means an Act of Common Council made and passed on the 4th day of October 1973;

“Act of 2012” means an Act of Common Council made and passed on the 13th day of September 2012;

“casual vacancy” means a vacancy in the office of Common Councilman arising from the death, disqualification or resignation of the incumbent;

“ordinary 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. Notwithstanding the provisions of section 2 of the Act of 2012, ordinary elections shall not take place on 17 March 2021 and shall instead take place on 23 March 2022.

Casual vacancies in the office of Common Councilman

3. Notwithstanding the provisions of section 6 of the Act of 1973, no precept shall be issued for an election to fill a casual vacancy arising before 23 March 2022.

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.

Savings

6. Save as hereby varied the provisions of the Act of 1973 and the Act of 2012 shall continue in full force and effect.