



Policy and Resources Committee

Date: THURSDAY, 14 OCTOBER 2021
Time: 1.45 pm
Venue: COMMITTEE ROOMS, 2ND FLOOR, WEST WING, GUILDHALL

14. **COVID 19 AND USAGE OF THE LONDON UNDERGROUND**
Report of the Director of Community & Children's Services.

For Decision
(Pages 3 - 8)

15. **LIVE STREAMING AND RECORDING OF MEETINGS**
Joint report of the Town Clerk & Chief Executive and the Comptroller & City Solicitor.

For Decision
(Pages 9 - 14)

Item received too late for circulation in conjunction with the Agenda.

John Barradell
Town Clerk and Chief Executive

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Committee(s): Policy and Resources Committee – For decision	Date: 14 October 2021
Subject: COVID 19 and usage of the London Underground	Public
Which outcomes in the City Corporation’s Corporate Plan does this proposal aim to impact directly?	1, 2
Does this proposal require extra revenue and/or capital spending?	N
If so, how much?	£NA
What is the source of Funding?	NA
Has this Funding Source been agreed with the Chamberlain’s Department?	NA
Report of: Andrew Carter, Chief Officer/Executive Director, Community & Children’s Services	For Decision
Report author: Chris Lovitt, Deputy Director of Public Health, City and Hackney Public Health Service	

Summary

The Policy and Resources committee is requested to consider writing a letter to the Mayor of London in support of his proposals for a bye law to make face covering wearing, with appropriate exemptions, a legal requirement in addition to a condition of carriage.

Recommendation(s)

Members are asked to:

1. Note:-
 - a) the evidence in support of face covering wearing as a COVID control measure;
 - b) the recommendation that face coverings should be used in enclosed spaces forms part of the recommendations in the Government’s COVID 19 Response: Autumn and Winter Plan 2021;
 - c) the welcome increase in use of the London transport network;
 - d) The reported decrease in the number of people using face coverings;
 - e) the continued sustained community transmission of COVID; and
 - f) the lower uptake of COVID vaccination in some disadvantaged communities.

2. Consider delegating authority to the Town Clerk in consultation with the Chairs’ of Policy and Resources and Communities & Children’s Services, to write a letter to the Mayor of London supporting his proposals to introduce a bye law to make face coverings, with appropriate exemptions, a legal requirement in addition to a condition of carriage.

Main Report

Background

1. The legal requirement, with exemptions, to wearing a face covering along with social distancing ended on the 19th July as part of reaching Step 4 of the Government's "Roadmap out of Lockdown". This was replaced with national recommendations on when and where to wear face coverings. Transport for London (TFL) has now made it a condition of carriage for non- exempt passengers to wear face coverings at all times when using TFL's stations and platforms throughout their network.

Current Position

2. The use of face coverings in enclosed spaces to control the spread of COVID-19 is supported by national government, ongoing trials and emerging research evidence¹.
3. The main benefit of face coverings is to reduce aerosols from entering the air from an infected person who may have asymptomatic infection or who is not complying with the legal requirement to self-isolate.
4. The use of public transport throughout London has increased since Stage 4 of the Government's Roadmap on the 19th July.
5. There continues to be sustained community transmission of COVID-19. Being doubly vaccinated provides safe and effective protection against the most serious effects of COVID infections. However, there remain large numbers of people, especially from disadvantaged communities, who have still not been vaccinated. No vaccine is 100% effective and although the risk of infection is substantially reduced, vaccinated people can still become infected and infect others.
6. Although TFL made face coverings a condition of carriage for non-exempt passengers, there are widespread reports that compliance has, and continues, to fall since the 19th July.
7. Prior to the 19th July, The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020 mandated the wearing of face coverings in specific circumstances including public transport. Fixed penalty notices could be issued by relevant authorised persons including TFL enforcement officers.

1

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1008199/S102_9-EMG-face-coverings-distancing-13-jan.pdf

<https://pubmed.ncbi.nlm.nih.gov/34407516/>

<https://eurjmedres.biomedcentral.com/track/pdf/10.1186/s40001-020-00475-6.pdf>

8. Transport for London has made wearing a face covering a condition of carriage² for non-exempt passengers
9. The Mayor of London has sought permission from national government to introduce a specific bye law that would require mandatory face covering for non-exempt passengers. A specific bye law would enable fixed penalty notices to be issued for non-compliance, this is an option that is not currently possible.

Options

10. To send a letter expressing the support from the City of London Corporation to Mayor Khan for the introduction of a bye law to make face coverings mandatory for non-exempt passengers who use the Transport for London network, see appendix 1 for a draft of this letter.
11. Not to send the proposed letter or request amendments to the proposed letter.

Proposals

12. The advice of national public health bodies including Public Health England and its successor, the United Kingdom Health Security Agency is for face coverings to be worn in enclosed spaces where you come into contact with people who you do not normally live or work with.
13. The City and Hackney Health Protection has endorsed the Government's COVID 19 Response: Autumn and Winter Plan 2021. The wearing of face masks for non-exempt passengers on public transport is in keeping with both local and national recommendations.

Key Data

14. Data on weekly or monthly public transport usage is not routinely published. However, information from third party reports and personal observations of members does highlight a welcome increase in passenger numbers.
15. Data on compliance with the condition of carriage requirement for face cover usage is not publicly available. However, widespread observations of members and press reports highlight ongoing reductions in the use of face coverings.

Corporate & Strategic Implications

16. City businesses are regularly and consistently expressing concerns to us that the low level of use of face masks on public transport is a significant deterrent to workers returning to the office.
17. Corporate plan implications: encouraging the use of face coverings when using the public transport is in keeping with the City of London's Corporate plan objectives to keep people safe and enjoy good health and wellbeing.

² [TfL Conditions of Carriage](#)

18. Financial implications: there are no direct financial implications for the Corporation of London. However, if COVID secure measures are not implemented then there is an associated risk of increased COVID infections. Increased COVID infections may then necessitate the introduction of measures outlined in the Government's strategy as "Plan B2" which would be expected to have a detrimental impact on economic activity.
19. Resource implications: there are no direct resource implications.
20. Legal implications: to introduce a bye law specifically in relation to mandatory face coverings on public transport save people who are exempt, would require Transport for London to seek national government approval.
21. Risk implications: There is an increased risk of higher COVID transmissions if the recommendations to wear face coverings is not adhered to.
22. Equalities implications: Transport for London already operate a face covering exemption scheme that ensures any person who has a disability, medical condition or other relevant protected characteristic is already exempt from the requirement to wear a face covering. Ensuring face coverings are used appropriately as a control measure would also offer some protection from increased COVID infections in people with underlying health conditions.
23. Climate implications: encouraging the use of reusable face coverings would help reduce the environmental impact of single use plastic-based face coverings.
24. Security implications: there are not thought to be any direct security implications from encouraging the use of face coverings.

Conclusion

25. Encouraging the use of face coverings on the public transport system as a COVID control measure is in keeping with national government policy, ongoing trials and emerging research findings.

Report Author:

Chris Lovitt

Deputy Director of Public Health, City and Hackney Public Health Service

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Appendices

- Appendix 1: Proposed text of letter to Mayor Khan

Proposed letter

Sadiq Khan
Mayor of London

Dear Mayor Khan,

Re: Introduction of bye-laws to enforce the wearing of face masks on the London Underground

The Policy and Resources Committee and Community and Children's Services Committee of the City of London Corporation received an update from the City and Hackney, Director of Public Health on the current COVID infection levels amongst residents of the City and across London more generally.

We discussed in detail the current recommendations from the Government as outlined in the COVID Autumn and Winter Plan 2021 which includes the recommendation to "wear a face covering in crowded and enclosed settings where you come into contact with people you do not normally meet."

We welcome the increased use of public transport and recognise the vital role public transportation plays in supporting London's economy and diverse communities.

We are concerned by reports regarding the visible decrease in the wearing of face coverings on tubes despite this being made a condition of carriage by Transport for London.

City businesses and trade associations are regularly and consistently expressing concerns that the low level use of face masks on public transport is a significant deterrent to workers returning to the office.

After careful consideration, on behalf of the City of London Corporation, we write to you to support the introduction of a bye-law to enable TfL to enforce the wearing of face coverings where appropriate by the issuing of fixed penalty notices.

It is our hope that such a bye-law will reduce the risks of infection, promote confidence amongst tube users and support London's recovery and growth.

Yours Sincerely

Catherine McGuinness
Chair of Policy & Resources

Ruby Sayed
Chair of Communities & Children's Services

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Committee(s) Policy and Resources Committee	Date: 14 October 2021
Subject: Livestreaming Arrangements	Public
Which outcomes in the City Corporation’s Corporate Plan does this proposal aim to impact directly?	4, 5 and 9
Does this proposal require extra revenue and/or capital spending?	Not at this stage
Report of: Town Clerk and Chief Executive, Comptroller & City Solicitor	For Decision

Summary

The outbreak of COVID-19 in March 2020, together with the restrictions on gatherings and travel which followed, brought the issue of virtual meetings to the forefront for all public bodies. It resulted in a rapid move to virtual meetings in the UK, with the Government introducing temporary, emergency, measures¹ enabling formal decision-making meetings to be undertaken virtually until 6th May 2021. Thereafter, the Court of Common Council established a COVID-19 Approval Procedure, which enabled virtual or hybrid meetings to continue until 7 October 2021 for local authority or police authority business (although the flexibility remains permanent for committees which deal with non-local or police authority business). Throughout this period, the public has had access to all committee and sub-committee meetings of the City Corporation via live streaming and recordings which are accessible on-line. This arrangement has provided transparency around decision-making and has helped to facilitate greater public scrutiny of the City Corporation’s business.

As of 7 October 2021, those meetings of the Court of Common Council and its committees with local and police authority functions have reverted to in-person, formal meetings, noting the legal prohibition on virtual participation in formal meetings. A decision on whether the current arrangements for the live streaming and recording of formal committees and sub-committees should continue, for the benefit of the public, is now required.

Recommendations

Members are asked to:

1. Note the decision taken under urgency procedures to maintain live streaming and recording arrangements as of 7 October 2021 as an interim measure, until such time that a longer term decision has been agreed by the Policy and Resources Committee and the Court of Common Council.
2. Consider whether the current arrangements for the live streaming and recording of formal committee and sub-committee meetings should continue, for the benefit of the public.
3. Consider whether, if live streaming and recording is to continue indefinitely, all meetings should be live streamed and recorded or if this arrangement should

¹ The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020

apply to a lesser number of committees and sub-committees i.e. decision-making only, only those with local authority functions, the Courts of Common Council and Aldermen only, etc.

4. Note the potential resourcing implications of future live streaming and recording arrangements.

Main Report

Background

1. The outbreak of COVID-19 in March 2020, together with the restrictions on gatherings and travel which followed, brought the issue of virtual meetings to the forefront for all public bodies. It resulted in a rapid move to virtual meetings in the UK with the Government introducing temporary, emergency, measures enabling formal decision-making meetings to be undertaken virtually until 6 May 2021.
2. In advance of the expiry of these emergency measures, in April 2021 the Court of Common Council resolved that, in view of the ongoing COVID-19 related restrictions, all of its local and police authority meetings should be conducted on an informal basis until 7 October 2021, with decisions taken formally in accordance with the COVID-19 Approval Procedure. It also agreed that, in order to maintain transparency and widen the reach of those wishing to observe the City Corporation's activities, live streaming and recording arrangements should be utilised to allow public access to these informal meetings.
3. Consequently, between 15 April 2021 and 7 October 2021, the Court of Common Council's COVID-19 Approval Procedure has enabled virtual or hybrid meetings to continue. Throughout this period of virtual/hybrid operation, the public has had access to all committee and sub-committee meetings of the City Corporation via live streaming and recordings which are accessible on-line for up to one municipal year: <https://www.youtube.com/c/CityofLondonCorporation/videos>
4. The live streaming and recording arrangements have helped to facilitate greater public scrutiny of the City Corporation's business, promote transparency and enhance democratic engagement: outcomes that the Policy and Resources Committee has championed for some time.

Current Position

5. As the 7 October neared, an observation was made that the wording of the Court's decision regarding the cessation of the informal COVID approval process could potentially be argued to imply that the live streaming and recording of meetings of the Court and its committees would also end as part of the COVID-19 Approval Procedure arrangement on 7 October 2021.
6. This was not considered to have been the intention of the Policy and Resources Committee's original proposal to the Court, nor was it considered that it was an intended consequence of the Court's insertion of an end-date for the informal decision-making process. The Comptroller & City Solicitor is also of the opinion that the City Corporation continues to have the right to continue to record and stream its meetings.

7. However, notwithstanding this, and in the interests of ensuring the approach is in keeping with Members' expectations, it is considered desirable and prudent for a decision to be sought as to continued and future arrangements, so as to remove any elements of doubt and to provide for a consistent and unambiguous position.
8. With the next meeting of the Policy and Resources Committee on 14 October, formal approval to continue to record and stream meetings on an interim basis as of 7 October 2021 was obtained under urgency provisions, so as to avoid any lacuna in approvals and allow for a report to be submitted for Members' consideration on 14 October.

Future live streaming and recording arrangements: Options and Proposal

9. Whilst a return to physical meetings by elected Members and co-opted Members, as decision-makers, came into operation as of 7 October 2021, accessibility by the public to the City Corporation's meetings via live streaming and the recording of meetings is a matter requiring consideration in order that a consistent approach is adopted.
10. Noting that the live streaming and recording arrangements have helped to facilitate greater public scrutiny of the City Corporation's business since the outbreak of COVID-19, promote transparency, and enhance democratic engagement, to end the arrangements now could be argued to represent a retrograde step. The Policy and Resources Committee has championed these outcomes for some time, and had previously indicated an aspiration for live streaming and recording continue indefinitely.
11. Further to this, it is important to note that, whilst COVID restrictions have been lifted, the City Corporation is now responsible for managing its own health and safety arrangements and, as part of managing the meeting space, in-person attendance (by the public) has been reduced. Allowing the public to view Court and committee business on-line provides flexibility, enhanced accessibility and maintains the City corporation's commitment to transparency and accountability.
12. Additionally, it should be noted that the Openness of Local Government Bodies Regulations, which came into effect on 6th August 2014, broadly give the public the right to film, audio record, take photographs and use social media and the internet at meetings in order to report on any meetings that are open to the public. At the City of London, meetings of the Court of Common Council, its Committees and Sub-Committees are open to the press and public under s. 100A of the Local Government Act 1972. As Members may recall, a protocol on filming was approved by the City of London Corporation in May 2014 (<https://www.cityoflondon.gov.uk/assets/About-us/filming-protocol-2019.pdf>). In the past there have been occasions where recordings were manipulated by observers at meetings and, in some instances, meetings were recorded by officers to ensure that a true account of the meeting was held by the City Corporation. The continuation of the live streaming and recording arrangements will ensure that there is an accurate account of a meeting in the public domain for up to one municipal year.

13. If Members agree that the live streaming and recording of meetings of Common Council and formal committee and sub-committee meetings should continue, for the benefit of the public, consideration should be given to the following options:
 - a. whether all public meetings should continue be live streamed and recorded
 - b. whether this arrangement should apply to a lesser number of committees and sub-committees, for instance, decision-making only, or only those with local authority functions, only the Courts of Common Council and Aldermen, etc.
 - c. whether local discretion should be provided to individual Chairs and Committees to determine if the arrangements shall apply to their meetings.
14. In order to avoid confusion and potential challenge, it is considered to be preferable if the matter is dealt with holistically, with a corporate, policy, decision being taken and applied across the board.

Financial and Resourcing Implications

15. The livestreaming arrangements have, to date, been overseen by officers from the IT Technology Support Team who had to learn and develop their expertise around live streaming at pace following the outbreak of COVID-19. It is important to note, therefore, that if a continuation of the current arrangements is agreed, there may be future resourcing implications, depending on whatever proposals emerging from the Target Operating Model affect that team or if responsibility is moved elsewhere.
16. It should also be noted that a project to upgrade the AV system and equipment used in the Guildhall's event spaces, in order to better support the delivery of both the City Corporation's and commercial events, is now well underway. As a result, the committee rooms in West Wing, Guildhall are fully kitted out to allow meetings to be recorded. The overall look and feel are professional and to a high standard.
17. The project is continuing, and it is expected that proposals around further upgrading works across the Guildhall Complex (including Great Hall) will come forward in due course. This report will need to articulate any capital commitment required, for Members' consideration.
18. However, until such time that any works are approved and completed, live streaming and recording in areas at Guildhall (other than the committee rooms) will continue to require third party support, which carries financial implications. This includes the current meetings of the Court of Common Council (Great Hall) and Planning & Transportation Committee (Livery Hall). Whilst efforts have been made to absorb costs within departmental budgets to date, this is not sustainable in the longer term and it may be necessary to bring forward a request for funds from contingency budgets, should the decision be made to continue live streaming and should a permanent solution not be deliverable within the coming period.

Legal Implications

19. The Comptroller & City Solicitor is of the opinion that the City Corporation continues to have the right to continue to record and stream its meetings. However, notwithstanding this and in the interests of ensuring the approach is in keeping with Members' expectations, formal approval to continue to record and stream meetings of the Court of Common Council and its committees and sub-committees (subject to consideration given as at paragraph 9) will prevent any uncertainty going forward.
20. It should be noted that the access to information provisions under Part VA of the Local Government Act 1972 (access to meetings etc.) were amended in 2014 to introduce a right to report on public meetings of local authorities in England. S.100A (7A)-(9) provides that any person attending a public meeting of a local authority must be permitted to report on that meeting. "Reporting" in s.100A(9) is widely defined and includes filming, recording and any other means for enabling persons not present to see or hear the proceedings as they take place or later. Any communication method, including the internet may be used (ss 7(E)).
21. A local authority must, as far as practicable, afford persons wishing to report, reasonable facilities for doing so. The right is subject to the usual powers to prevent disorder at meetings.
22. Filming/streaming etc. will need to be carried out in accordance with the data rights of participating individuals. The lawful ground for the processing of personal data will generally be under Article 6(1)(e) of GDPR (performance of a task carried out in the public interest) where the recording is by or on behalf of the local authority or Article 6(1)(f) (legitimate interest) where the recording is by a member of the public or the Corporation in City's Cash capacity.
23. It should be noted that s.8(e) of the Data Protection Act 2018 specifically provides that processing necessary for an activity that supports or promotes democratic engagement comes within the ambit of Article 6(1)(e).
24. Participating data subjects under either ground have the right to object to the processing under Article 21. This is not an absolute right and the data controller responsible for the recording may, subject to an appeal to the Information Commissioner's Office, override an objection where there are compelling legitimate grounds for doing so.
25. Any objections to filming/streaming will be considered by the Town Clerk on their individual merits. However, the benefits of live streaming in promoting openness, accountability and democratic engagement, particularly where many people are unable to attend physical meetings will be a very significant factor to be weighed against individual rights, particularly in relation to those elected to public office.

Equality Impact Assessment

26. Under the Equality Act 2010, all public bodies have a duty to ensure that when exercising their functions due regard is given to the need to:-
 - *eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the 2010 Act;*

- *advance equality of opportunity between people who share a protected characteristic and those who do not; and*
- *foster good relations between people who share a protected characteristic and those who do not;*

In advancing equality of opportunity public bodies also need to have due regard to the need to:-

- *remove or minimise disadvantages suffered by people due to their protected characteristics;*
- *take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people; and*
- *encourage people with certain protected characteristics to participate in public life or in other activities where their participation is disproportionately low.*

27. A continuation of live streaming and recording of meetings (noting the options set out in paragraph 9) will have a positive impact by widening transparency and the scope for members of the public to observe the democratic process remotely, particularly those with disabilities or health conditions which would potentially make coming into Guildhall, and potentially other sites used for formal meetings, difficult.

28. **Security Implications** – None.

29. **Climate Implications** – None.

Conclusion

30. Whilst a return to physical meetings by elected members and co-opted members, as decision-makers, came into operation as of 7 October 2021, accessibility by the public to the City Corporation's governance arrangements via live streaming and the recording of meetings is a matter requiring consideration and agreement so a consistent approach is adopted by the Court of Common Council. Noting that the live streaming and recording arrangements have helped to facilitate greater public scrutiny of the City Corporation's business since the outbreak of COVID-19, promote transparency and enhance democratic engagement it is recommended that live streaming and recording continue indefinitely for all or some meetings, subject to the views of Members on how this arrangement should be applied.

Background Papers

- Report to the Policy and Resources Committee – Audio-visual Participation in Formal Meetings – 8 April 2021
- Report to the Court of Common Council – Audio-visual Participation in Formal Meetings – 15 April 2021
- City of London Corporation's Protocol on Filming:-
<https://www.cityoflondon.gov.uk/assets/About-us/filming-protocol-2019.pdf>