

# Report – Policy and Resources Committee

## Audio-visual Participation in Formal Meetings

*To be presented on Thursday, 15<sup>th</sup> April 2021*

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

### SUMMARY

1. The introduction of virtual meetings was first considered by the Policy and Resources Committee in November 2018. It followed requests from a number of Members who felt that it would improve participation in the democratic process by Members and be a more efficient use of Officer time. At that time the Committee agreed to pilot virtual meetings with the Board of Governors of the City of London Freeman's School.
2. Last year's outbreak of COVID-19 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 Government introducing temporary, emergency, measures (the *Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020*) enabling formal decision-making meetings to be undertaken virtually until 6<sup>th</sup> May 2021.
3. Virtual meetings have introduced more flexibility, helped to facilitate greater public scrutiny, aided Members and officers in conducting business more efficiently and are now operating with a high degree of success nationally. Notwithstanding this, the Ministry of Housing, Communities and Local Government (MHCLG) have confirmed that it will not be extending measures beyond 6<sup>th</sup> May 2021 to enable local authority meetings to continue virtually or indeed enable the City Corporation to move towards a hybrid format as was envisaged.
4. Part 5A of the Local Government Act 1972 covers public access to meetings, agendas and reports, the inspection of minutes and background papers, etc. and applies to the Common Council in its capacity as a local authority and police authority. Without the modifications introduced by the 2020 Regulations the legislation prohibits formal meetings taking place virtually. This means that in order to participate in discussions and vote on decisions or recommendations, Members must be present physically at the meeting at which the matter is considered. The legislative framework does not apply to informal meetings such as call-overs and working parties.
5. The Court of Common Council has in the past voluntarily chosen to apply Part 5A to all its formal meetings including those with non-local authority and non-police authority functions. The need for public access to meetings in accordance with Part 5A is referred to in Standing Orders No. 4 and 32 but the Standing Orders also give the Court and its Committees scope to disapply those provisions in respect of non-local authority and non-police authority functions. A schedule setting out the status of the committees in

terms of the functions they cover is attached as an appendix to this report for your information.

6. Notwithstanding the fact that committees can, if they so choose, change the way the legislation is applied, the Committee is of view that rather than leaving this to individual committees and addressing the issue in a piece-meal manner, any change is best dealt with holistically, with a corporate, policy, decision being taken and applied across the board.

## **Recommendations**

7. Members are asked to note the content of this report and:-

- i. determine whether Members should continue to have the flexibility to participate in Court and committee meetings remotely, when exercising non-local authority and non-police authority functions.
- ii. For non-local authority committees, agree to Part 5A of the Local Government Act being retained to enable public to continue to have access to meetings and public papers and, in order to retain the ability to meet virtually or in hybrid format, the City Corporation continues to apply Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 as if they continue to be in force after 6<sup>th</sup> May 2020 .
- iii. authorise a change to the wording on the title page of non-public committee reports which relate to the Common Council's non-local authority and non-police authority functions to make it clear that Part 5A of the Local Government Act 1972 is being voluntarily applied.
- iv. For the time being, while certain restrictions are still in place, agree to formal local and police authority business being dealt with via a "Covid" ratification process, i.e. by holding an informal virtual meeting in the first instance to ascertain the general view of a committee or sub-committee, with the public being given access to the informal meeting to maintain transparency via live streaming and recording. A formal decision, which accurately reflects the mood of the informal meeting, can then be taken by the Town Clerk, who is hereby given delegated authority to formally approve such decisions pursuant to s.101(1) of the Local Government Act 1972.
- v. Committees be given the option of bringing forward the process for the election of Chairs and Deputy Chairs so that the elections take place before 6th May. This could be done via a special, one item meeting if necessary, using the current balloting arrangements. This way the elections will not require ratification under the Covid decision making process.
- vi. all Members (elected or otherwise) who need to return to Guildhall for face-to-face meetings should be encouraged to undertake regular lateral (rapid) flow tests prior to coming into Guildhall in the same way staff, who have to attend the workplace to perform duties that they cannot do at home, are being encouraged to do;

- vii. Any decision take by the Court this day be communicated to external co-optees and other non-CoCo Committee Members; and
- viii. the Town Clerk being authorised to make such amendments to Standing Orders and related corporate governance documentation as is required to give effect to the above decisions.

## **Main Report**

### **Background**

- 8. The Local Government Act framework prohibits formal virtual meetings. In order to participate in discussions and vote on decisions or recommendations, a Member must physically be present at the meeting at which the matter is considered. This does not prohibit Members participating in informal meetings such as consultative committees, call-overs and working parties remotely. Part 5A of the 1972 Act (inserted by the Local Government (Access to Information) Act 1985) covers public access to meetings, agendas and reports, the inspection of minutes and background papers, etc. and applies to the Common Council in its capacity as a local authority and police authority. In 1986 the Court voluntarily agreed to apply Part 5A to all its formal meetings regardless of whether the functions were financed via City Fund (ratepayers' money), City's Cash or Bridge House Estates.
- 9. The introduction of virtual meetings in relation to the Common Council's non-local authority and non-police authority functions was first contemplated by the Policy and Resources Committee in November 2018. It was considered a sensible means of facilitating greater participation in meetings and at that time the Committee agreed to pilot virtual meetings with the Board of Governors of the City of London Freeman's School. The School Board was attracting limited interest from Members wishing to serve on it and the feeling was that this was largely due to the difficulties associated with Members needing to juggle work commitments with travel to and from Ashted in Surrey to attend meetings. Other Members not associated with the Board were also calling for remote access to meetings to be considered with a degree of permanency to better assist participation and the work commitments of Members and Officers and allow for some modernisation of the Corporation's practices. They have continued to voice this view since that time.
- 10. Last year's outbreak of COVID-19 together with the restrictions on gatherings and travel which followed, brought the issue to the forefront for all public bodies. It resulted in a rapid move to virtual meetings in the UK with Government introducing temporary, emergency, measures (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 Flexibility of Meetings Regulations*") enabling formal decision-making meetings to be undertaken virtually until 7<sup>th</sup> May 2021.
- 11. With the advent of improved technology and new ways of working, virtual meetings have been operating well since that time. They have introduced more flexibility, helped to facilitate greater public scrutiny, aided Members and officers in conducting business more efficiently and are now operating with a high degree of success nationally. The City Corporation's committee rooms have been upgraded and can now support this new way of working. A project is also underway to upgrade the AV system and equipment used

in Guildhall's event spaces in order to better support the delivery of both the City Corporation's and commercial events in future.

12. Notwithstanding this, the Ministry of Housing, Communities and Local Government (MHCLG) have confirmed that it will not be extending measures to enable local authority meetings to continue virtually or indeed enable us to move towards a hybrid format as had been hoped. MHCLG had previously advised that extending the facility for councils to continue to meet remotely, or in hybrid form, would require primary legislation. In confirming its view more recently, the Department have also commented that with the successful rollout of the vaccine and the reduction in cases of Covid-19, risks to Members meeting in person will reduce significantly. It cited the ability of public bodies to utilise existing powers to delegate decision-making to key individuals as another reason and whilst the Flexibility of Meetings Regulations end on 6<sup>th</sup> May, the MHCLG have suggested that local authorities could also consider not resuming physical meetings until after 17<sup>th</sup> May by which time it is envisaged that a much greater range of indoor activity will be taking place in line with the Government's Roadmap. A copy of the Minister for Regional Growth and Local Government's letter is attached as an appendix.
13. Nevertheless, the Minister is encouraging Councils to share their experiences, via a call for evidence, about how remote meetings have taken place during the pandemic. Its purpose is to inform any potential legislation regarding their use beyond the coronavirus outbreak and will close on 17<sup>th</sup> June 2021. It is important that the City Corporation responds to this accordingly.
14. The Local Government Association and several pan-London agencies all made representations to MHCLG prior to its decision including by the Chair of this Committee, through London Councils. These agencies have continued to raise concerns following the most recent outcome. The Chair of Policy and Resources Committee has also written to the Secretary of State urging a resolution to be found that allows hybrid local authority meetings to continue. In addition, the Association of Democratic Services Officers (ADSO) with the help of Lawyers in Local Government (LLG) is seeking a declaratory judgment in the High Court that the Act does in fact allow remote cabinet and committee meetings to take place (contrary to the generally accepted position). This is scheduled to be considered on 21 April 2021.
15. In the meantime, like us, local authorities are now considering their options for enabling safe, physical, attendance at meetings including looking at the use of larger premises and any associated cost.
16. The requirement for people to socially distance is still in place and is likely to remain so for some time, making it difficult to accommodate some of the City Corporation's larger committees without the use of larger event space and incurring significant cost. For example, there are 32 Members on the Policy and Resources Committee and its usual meeting place, Committee Rooms 3 and 4, can only accommodate a maximum of 18 people in a safe, socially distanced (2 metres), manner. This excludes access to a public gallery. Moving the meeting to alternative event space such as Great Hall will come with a cost (approximately £6,848.50 ex. VAT for the first meeting and £5,400 for subsequent meetings) given the benefits of livestreaming and/or record meetings particularly in terms of maintaining greater transparency. If physical meetings are to resume before 17<sup>th</sup> May, a total of 6 meetings would potentially have to be held in Great Hall due to the size of membership and limited capacity in the committee rooms. They would need to be

supported by an external contractor at a cost of approximately £33, 848.50. That said, streaming is not legally required if provision is made for the public to attend physically. However, doing so would require space, further limit the number of Members who can attend meetings in a committee and could be challenging logistically.

17. The decision to apply Part 5A of the Local Government Act 1972 to all the Common Council's functions was well-meaning and was based on the Court's desire to increase transparency and consistency across all of its activities. However, given the success of virtual meetings and the fact that the expiry of the 2020 Regulations will again require Members to be physically present in order to make decisions on local authority and police authority matters, your Committee feels the time is now right for the City Corporation to move away from a "one size fits all" approach.
18. The Committee is firmly of the view that Members should continue to have the flexibility to participate in committee meetings remotely when exercising non-local authority and non-police authority functions. A schedule of the status of the Common Council's committees in terms of the functions they cover, is attached as an appendix to this report for your information.
19. The need for public access to meetings is dealt with in Standing Orders No. 4 and 32. The Standing Orders also give the Court and its Committees scope to disapply the provisions of Part 5A of the Act in respect of their non-local authority and non-police authority functions. However, the Policy Committee is of the view that any disapplication is best dealt with holistically with a corporate, policy, decision being taken and applied across the board, rather than leaving this to individual committees and addressing the issue in a piecemeal manner.
20. When considering local and police authority matters, the Comptroller and City Solicitor has advised that the statutory framework surrounding local authority meetings (in the absence of the 2020 Regulations) require the public to have physical access to the public part of the meeting. Authorities would however be able to make reasonable provision in the current circumstances by, for example, continuing to offer a live streaming service to those members of the public who could not be accommodated physically. It has always been the case that public access can be limited by the facilities reasonably available as long as the authority acts in good faith (it is likely to be bad faith to deliberately organise a meeting in a small room to limit public access). Reasonable available capacity having regard to health and safety requirements is therefore a legitimate limiting factor.

### **Options for Holding Physical Meetings Safely**

21. The City Corporation has a duty of care with regard to the use of its premises. It is required to conduct appropriate risk assessments and to follow Public Health England, Health and Safety Executive and Government guidance to ensure that business is conducted safely. The requirement for social distancing (two metres, or one metre with risk mitigation (where two metres is not viable) is still be in place and for the time being capacity in the committee rooms has been reduced to adhere to the 2m principle. This means that Committee Room 1 now accommodates no more than 8 people, Committee Room 2 no more than 10 and Committee Rooms 3 and 4 combined, now has a maximum of 18 people. In addition, safe movement around the building also needs to be factored in.

22. Accommodating some of the City Corporation's larger committees without the use of larger event space will be challenging and carries a significant cost. The reduced capacity in committee rooms is also likely to have an impact on the management of the current calendar of meetings. For example, on 26<sup>th</sup> May, there are four meetings scheduled to take place – Property Investment Board (8.30am start), Social investment Board (9am start), Resource Allocation Sub-Committee (10am start) and Markets Committee (11.30am start). Due to the size of the membership of the Markets Committee (33), this meeting could not be accommodated in the committee rooms unless 16 members were excluded from attending in person. The other committees could be accommodated in the committee rooms - with all Members able to attend physically. Notwithstanding this, there is uncertainty regarding the amount of time required between meetings to allow for rooms to be appropriately cleaned before re-use. Overall footfall through the 2<sup>nd</sup> and 3<sup>rd</sup> floors of West Wing are also a consideration when and where meetings can be held, noting the guiding principle that the meeting area must be Covid-safe.
23. Accommodating a full Court of Common Council meeting will also be challenging. Committee and Members Services have been advised that Great Hall can accommodate approximately 63 Members only with the 2m social distancing safety measure in place. This increases to approximately 106 Members if 1m distancing is deployed with further risk mitigation measures, i.e. those present in the room being required to wear a mask.
24. Officers are in the process of working through the impact and the complex logistics of holding committee meetings as well as the limitations associated with Court meetings. For example, consideration is being given to the use of alternative, City Corporation, venues which might be able to accommodate a full Court, cleaning the committee rooms in between meetings and, in the case of the Court, cleaning microphones after use and managing a division should one be required if Great Hall is used. In the meantime, it is proposed that, apart from the Clerk, all officers should continue to attend meetings remotely. This will assist with management of physical numbers within a confined space. It also represents a more efficient use of officer time.
25. Your Committee has therefore given detailed consideration to the management of meetings within these constraints. It has concluded that:-
- Members should continue to have the flexibility to participate in Court and committee meetings remotely, when exercising non-local authority and non-police authority functions
  - For non-local authority committees Part 5A of the Local Government Act should be retained (given the importance of public access to meetings and public papers) and that the City Corporation should continue to apply the 2020 regulations as if they exist and, in so doing, retain the ability to meet virtually or indeed in hybrid format for non-local authority and non-police authority meetings.
  - In terms of the City Corporation's local authority and police authority functions, while certain restrictions are still in place, formal committee business should be dealt with via a "Covid" ratification process i.e. holding an informal virtual meeting in the first instance to ascertain the general view of a committee or sub-committee (with the public being given access to the informal meeting to maintain transparency via live streaming and recording) with a formal decision, which accurately reflecting the mood of the informal meeting, then be ratified.



- Committees be given the option of bringing forward the process for the election of Chairs and Deputy Chairs so that the elections take place before 6th May. This could be done via a special, one item meeting if necessary, using the current balloting arrangements. This way the elections will not require ratification under the Covid ratification process. It should be noted that under Standing Order No. 29 (1) (e) Chairs/Chairmen, are able to convene additional meetings, in consultation with their Deputy Chairs/Chairmen.
- To assist with the logistics and management of meetings a straw poll of Members should be undertaken to establish the number of Members who wish to attend meetings physically. Given the cost associated with moving larger committees to other event spaces, this will assist in informing Chairmen how to proceed as well as the arrangements for accommodating physical attendance.
- In order to minimise the risk of asymptomatic people transmitting the COVID virus all Members (elected or otherwise) who need to return to Guildhall for face-to-face meetings should be encouraged to undertake a lateral (rapid) flow test prior to attending the workplace in the same way staff who have to attend the workplace to perform duties they cannot do at home are encouraged to do. Rapid tests are available at local testing sites as well as in the City. Everyone is now entitled two tests each week and kits can be ordered and undertaken at home.
- Any decision taken by the Court on this matter should be communicated to external co-optees and other non-CoCo Committee Members.

## **Legal and Constitutional Implications**

26. For local authorities, the conduct of meetings is governed primarily by the Local Government Act 1972. Not all these provisions apply to the City Corporation in its capacity as a local authority or police authority. However, those provisions that do apply, inserted by legislation passed in 1985, do not as drafted allow Members attending via video link to count towards the quorum, participate in discussion, or take part in voting on the business at a meeting. The advice from leading counsel in the past has been that it would probably be permissible for Members and officers to make some contribution to local authority or police authority meetings via video link where a quorate meeting is taking place in one physical location, but this would be limited to, for example, assisting with a factual matter, or dealing with a point of information. This has always been the generally accepted position, within Government and Local Government, hence the need for the Flexibility of Meetings Regulations in the first place. However, as noted in paragraph 14 this position is now being challenged and officers will monitor the position.
27. Subject to this, any change to this position after the expiry of the Flexibility of Meetings Regulations therefore requires an amendment to legislation. The view of Government, pre-pandemic, was that only joint committees, combined authorities meetings and some rural authority meetings were suitable to be held via video conferencing for transparency purposes reasons and the potential distances people might need to travel to adhere to some of those arrangements. As will be seen above the Government has indicated that they do not intend to extend the Flexibility of Meetings Regulations and the position will therefore revert to the traditional position.

28. In terms of the City Corporation's educational activities, schools in the public sector are able to hold virtual meetings under legislation specifically directed at them, and independent schools may also do so depending on the terms of their individual governing instruments.
29. With regard to some of our other activities, such as Bridge House Estates, and other charities for which the City Corporation is trustee acting by the Court of Common Council, guidance from the Charity Commission states that charity trustees may choose to conduct some trustee meetings by electronic means, unless the governing document specifically prohibits it, and provided that the means used allows them to both see and hear each other. The guidance states that such meetings can be useful if an emergency decision needs to be made, if trustees live a long way from any central point or if electronic communication makes it easier for charity trustees with disabilities to participate.
30. The City of London is a common law corporation and the conduct of its non-local authority and non-police authority business is a matter for its own internal management. This includes the conduct of Court of Common Council and its committees. In the same way that the Court can voluntarily choose to adopt the framework under Part 5A of the Local Government Act 1972 for its non-local authority and non-police authority functions, it can continue to treat the currently amended provisions as though they apply. It could also choose to depart from this framework completely and develop some alternative arrangements. This has been confused by the existing Corporation practice of referring to the Local Government Act 1972 on the title page of all non-public committee reports when dealing with access to information rules, a practice traceable to a decision of the Common Council when the 1985 legislation was passed to record the access rules applicable to local authorities to all Common Council functions whether local authority or non-local authority in nature. This was a decision which the Court was entirely entitled to make, but the prompt for doing so was the Common Council's and not as a result of a statutory imposition.
31. This history is not apparent from the way committee papers are currently annotated. The existing practice infers that all Common Council functions are governed by the 1972 Act. The issue raised by virtual meetings points to the need to address the current practice to make clear that in relation to non-local authority functions, the rules on access are governed by the Corporation's policy decision and not imposed by the legislation applicable to local authorities.
32. Members are therefore asked to consider authorising a change to the wording on the title page of all non-public committee reports which relate to the Common Council's non-local authority and non-police authority functions to make it clear that Part VA of the Local Government Act 1972 is being voluntarily applied.

## **Corporate and Strategic Implications**

33. The ability to virtually attend meetings or hold meetings in hybrid format supports outcomes 4, 5 and 9 of the Corporate Plan i.e. it will ensure that City Corporation remains digitally well-connected and responsive, it will also assist in ensuring that its communities being more tenacious and cohesive and that as a business we are trusted and socially and environmentally responsible. As an organisation with private, public and charitable and community sector responsibilities, and significant capabilities and commitments, it is important that we demonstrate this across all our activities. Disentangling the



organisations non-local authority and non-policy authority also supports the ethos of the City Corporation's responsible business strategy by creating positive impact on decision-makings. The change will enhance transparency and accountability and enable the City Corporation to support its communities becoming better connected.

## **Equality Impact Assessment**

34. 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:-

- *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.*

(i)

35. An Equality Assessment has been undertaken to ensure that this will not adversely affect any particular group of people (i.e. age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sex orientation). Disapplying legislation which requires Members to be physically present in order to participate in the decision-making process will have a positive impact by widening transparency and the scope for elected Members and members of the public to participate in the democratic process remotely, particularly those with disabilities or health conditions which would potentially make coming into Guildhall difficult.

## **Conclusion**

36. With the advent of improved technology and new ways of working, virtual meetings are operating well. They have introduced more flexibility, helped to facilitate greater public scrutiny, aided Members and officers in conducting business more efficiently and are now operating with a high degree of success nationally. The City Corporation's committee rooms have been upgraded and can now support this new way of working. A project is also underway to upgrade the AV system and equipment used in Guildhall's event spaces in order to better support the delivery of both the City Corporation's and commercial events in future. A resolution to continue voluntarily applying Part VA of the Local Government Act 1972 to the Common Council's non-local authority and non-police authority functions beyond 6<sup>th</sup> May 2021, as amended by the 2020 Regulations, will enable certain committees to continue with virtual/hybrid meetings on a permanent basis.

37. Whilst the Court, its Committees and Sub-Committees have the ability to do disapply the legislation, officers are of the view that rather than leaving this to individual committees and addressing the issue in a piece meal manner any disapplication is best dealt with holistically with a corporate, policy, decision being taken and applied across the board. Officers are also of the view that consideration should be given to changing the wording on all non-public reports with reference to the Local Government Act 1972, where it does not formally apply, as this can cause confusion.

**Appendices:** Schedule of the Status of Committees and Letter from the Minister for Regional Growth and Local Government, Luke Hall MP

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

DATED this 8<sup>th</sup> day of April 2021.

SIGNED on behalf of the Committee.

**Deputy Catherine McGuinness**  
Chair, Policy and Resources Committee

## Appendix 1

### Local Authority Status of Committees/Boards

	Body	Local Authority (Yes/No/Part)
1	Audit and Risk Management Committee	Part
2	Barbican Centre Board	Yes
3	Barbican Residential Committee	Yes
4	Board of Governors of the City of London Freeman's School	No
5	Board of Governors of the City of London School	No
6	Board of Governors of the City of London School for Girls	No
7	Board of Governors of Guildhall School of Music and Drama	No
8	Capital Buildings Committee	Part
9	Community and Children's Services Committee	Yes
10	Culture, Heritage and Libraries Committee	Part
11	Education Board	Part
12	Epping Forest and Commons Committee	No
13	Establishment Committee	Part
14	Finance Committee	Part
15	Freedom Applications Committee	No
16	Gresham (City Side) Committee	No
17	Hampstead Heath, Highgate Wood and Queen's Park Committee	No
18	Health and Wellbeing Board	Yes
19	Investment Committee	Part
20	Licensing Committee	Yes
21	Livery Committee	No
22	Local Government Pensions Board	Yes
23	Markets Committee	Part
24	Open Spaces and City Gardens Committee	Part
25	Planning and Transportation Committee	Yes
26	Police Authority Board	Yes
27	Policy and Resources Committee	Part
28	Port Health and Environmental Services Committee	Part
29	Standards Appeals Committee	Part
30	West Ham Park Committee	No
31	Bridge House Estates Committee (NEW)	No
32	Innovation & Growth Advisory Board (NEW)	No
33	Health and Social Scrutiny Care	Yes
34	Fraud and Cyber Crime Reporting and Analysis Service Procurement Committee (NEW – time limited)	No

Local Authority Committees	9
Non-Local Authority Committees	13
Hybrid Committees	12