

Committee(s) Policy and Resources Committee	Date: 16 December 2021
Subject: Act of Common Council – Nationality Requirement for Aldermen and Presiding Officer at Wardmote	Public
Which outcomes in the City Corporation’s Corporate Plan does this proposal aim to impact directly?	N/A
Does this proposal require extra revenue and/or capital spending?	No
Report of: Comptroller and City Solicitor and Town Clerk and Chief Executive	For Decision
Report author: Edward Wood, Chief Solicitor	

Summary

The accompanying Bill is intended to clarify the nationality requirement for Aldermen by removing the erroneous reference in Acts of Common Council suggesting that there is a pre-existing requirement for Aldermen to be British subjects. The Bill is also intended to introduce more flexibility into the arrangements for presiding at a wardmote by allowing a Lord Mayor’s Aldermanic Representative to preside where none of the traditional presiding officers are available.

Recommendation(s)

Members are asked to:

- Consider whether to approve the Bill at Appendix 1 and submit it to the Court of Common Council for the necessary readings.

Main Report

Nationality Requirement for Aldermen

1. Members will recall that the nationality requirement for Aldermen was recently clarified in a Law Officers’ Opinion. The current version of the Wardmote Book has been updated to make it clear that an Alderman may be a Commonwealth citizen or a citizen of the Republic of Ireland. This restriction arises from section 3 of the Act of Settlement of 1701, as modified by Schedule 7 of the British Nationality Act 1981, and is not therefore a requirement that the Court of Common Council can remove. There is no additional requirement in the Act of Common Council of 15 April 1714 that Aldermen must be British subjects, and this

retrospective interpretation in Acts of Common Council from 1998 onwards was probably based on the separate requirement to be a freeman. The freedom was originally limited to British subjects but was opened up to European Union citizens from 1996 and to persons of any nationality from 1999.

2. The meaning of the term British subject has itself changed over time, with references in legislation passed before the commencement of the British Nationality Act 1981 being synonymous with a Commonwealth citizen, and later references relating only to a small residual class of individuals. Whilst the reference in Acts of Common Council from 1998 onwards to a pre-existing requirement for Aldermen to be British subjects has no legal effect, this has understandably caused some confusion and your Committee has asked for the position to be put beyond doubt through a new Act of Common Council. Clause 2 of the Bill (at Appendix 1) seeks to do this by removing the reference to British subjects from the Act of Common Council of 10 September 1998 (at Appendix 2).

Presiding Officer at Wardmote

3. Traditionally, at an Aldermanic election, the Lord Mayor, or in their absence their locum tenens, acts as presiding officer. At an election of Common Councilmen, the Alderman of the ward, or in their absence the Lord Mayor or their locum tenens, acts as presiding officer at the wardmote, and the Deputy of a ward can also preside at a wardmote to fill a casual vacancy. When Members recently reviewed the Wardmote Book, they asked officers to look at these arrangements, to see if more flexibility could be introduced.
4. One issue is that there are many duties that the Lord Mayor is asked to undertake, both at home and abroad, and the number of senior Aldermen who have served as Lord Mayor and can act as locum tenens is quite limited. In any event it is not possible for the Lord Mayor and their locum tenens, or more than one locum tenens, to be present in the City at the same time and this limits the number of substitutions that can be put in place on the same day. Whilst section 17(3) of the City of London (Various Powers) Act 1954 enables a poll to be delayed to a different date in some circumstances, to allow the Lord Mayor to preside in multiple wards, it would be better in many cases to avoid any delay in the holding of a poll, for example where the ordinary ward elections in relation to the whole number of Common Councilmen are scheduled to be held on the same day.
5. Another concern that has been expressed by some Members is around potential conflicts when acting in the presiding officer role, for example where an Alderman has supported a particular candidate for Common Councilman at the election in question. In this context it is important to note that, under section 2 of the City of London Ballot Act 1887, the presiding officer at an election where a poll is held is also the returning officer for that election, with all of the powers and duties which are conferred and imposed on that position. Whilst the link between an Alderman and their ward is very important, and in most cases such engagement will not give rise to an actual conflict or perception of bias, there is clearly a desire amongst some Aldermen to have increased flexibility to recuse themselves in some circumstances, for example through an exchange of duties with an Alderman in another ward.

6. It is known that occasionally the customary arrangements set out above have been departed from in the past, out of necessity, but it is felt that any deviation ought to be formalised and regularised. The initial proposal from Members was that a Representative Lord Mayor could be authorised to preside at ward elections. However, this must still be an Alderman who has passed the chair and so would not address all of the above concerns. Allowing any Alderman to preside in a different ward would maximise the available options, but it is proposed that such arrangements should continue to be exercised under the authority of the Lord Mayor, through the appointment in writing of a Lord Mayor's Aldermanic Representative to act as presiding officer at a specific election. It may be worth emphasising that is not intended to routinely depart from the current arrangements – the option of a Lord Mayor's Aldermanic Representative would be used where none of the traditional presiding officers were available, and this is reflected in the drafting of clauses 3 and 4 in the Bill.

Next Steps

7. If Members wish to take the Bill forward then, in accordance with Standing Order 46, it will be submitted to the Recorder of London for settling. The proposal is that it will be read a first and second time at the Court of Common Council on 13 January 2022 and read a third time and made an Act of Common Council at the subsequent meeting on 10 March 2022. It will then be in force in time for the resumption of ward elections later that month.

Conclusion

8. The accompanying Bill has been drafted at the behest of Members, to clarify the nationality requirement for Aldermen and to introduce greater flexibility into the arrangements for presiding at a wardmote. If your Committee is content with the draft document then it will be submitted to the Court of Common Council for approval. If made and passed as an Act of Common Council, it will be in force for the 'all out' elections of Common Councilmen on 23 March 2022 and for the resumption of Aldermanic by-elections.

Contact:

Edward Wood
Chief Solicitor
020 7332 1834
edward.wood@cityoflondon.gov.uk

Appendix 1

Bill for an Act of Common Council

Appendix 2

Act of Common Council of 10 September 1998 (as amended)