Committee(s):	Date(s):
Policy & Resources General Purposes Committee of Aldermen Court of Common Council	22 March 2013 19 March 2013 25 April & 16 May 2013
Subject: Aldermanic Eligibility	**Public**
Report of: Town Clerk, Comptroller & City Solicitor and Remembrancer on behalf of the Working Party established to review the criteria for eligibility to become an Alderman	**For Decision**

Summary

1. Late last year, a Working Party was set up by the General Purposes Committee of Aldermen and the Policy & Resources Committee to review the criteria for eligibility to become an Alderman. The Working Party has met on two occasions and, following detailed consideration of all the issues, it has decided to recommend a change to the current requirements.

2. Currently, to become an Alderman, candidates must be a Justice of the Peace or be considered suitable by the Lord Chancellor's Advisory Committee for Justices of the Peace for appointment as a Justice of the Peace for the Central London Local Justices Area. The Working Party considered carefully whether this link with the magistracy should be retained, because it was felt that the magistracy, as a pre-election qualification, had prevented candidates who might have otherwise been suitable for the office of Alderman and beyond from standing for election. A number of people who had expressed an interest in standing for office over the last 12 months were unsuccessful in the application process to become a magistrate.

3. Having looked at a number of options, the Working Party is recommending that an alternative pre-election qualification should be introduced in addition to the magistracy. Retaining the magistracy will mean that candidates for the office of Alderman will have a choice of which route to go down when standing for election – either by being qualified as a magistrate or by satisfying a new and objective set of criteria.

4. It is recommended that Aldermanic candidates who choose not to become a magistrate can qualify for election, provided they satisfy criteria which includes their not having been convicted of an imprisonable offence (even if they were not actually imprisoned or the conviction has been spent) or having been the subject of a bankruptcy restriction order etc. This is based on criteria applicable to candidates standing for election as Police & Crime Commissioners (PCC), which is relevant, bearing in mind that the Lord Mayor is head of the City Corporation including in its capacity as a Police Authority (ie: equivalent to a PCC) and similar provisions apply generally to local councillors elsewhere. The

Working Party believes that these represent legitimate and defensible pre-election conditions to impose on Aldermanic candidates, who might go on to become elected to the high office of Lord Mayor.

5. This change would require an Act of Common Council and a Draft Bill for an Act is attached at Appendix D.

6. The Working Party has also highlighted the advantages of Members (both Aldermen and Common Councilmen), together with the Livery, being proactive in consistently identifying and encouraging individuals who have the attributes and qualities to be an Aldermen. Finally, the report submits an opinion of the Law Officers (Appendix E) concerning the retirement age for Aldermen which concludes that whilst the current convention of retirement at 70 can be continued under both existing and proposed arrangements it would not be possible to impose a legally binding retirement age without an act of Parliament.

Recommendations: We recommend that:

(a) the current pre-election qualification for Aldermanic candidates relating to the magistracy be retained and that approval be given to the introduction of alternative pre-election conditions similar to those imposed on candidates standing for election as Police & Crime Commissioners as proposed in Appendix C, on the basis that candidates can choose to satisfy either criteria in order to qualify for election;

(b) approval be given to the Bill for an Act of Common Council set out in Appendix D and, subject to the Bill being settled by the Recorder of London, submit it to the Court of Common Council for approval;

(c) the proposals outlined for helping candidates to be better prepared for the application process to become a magistrate be endorsed and the production of guidance for candidates be approved (subject to it being seen by the Bench Chairman/Advisory Committee); and

(d) views expressed about Members and the Livery informally identifying and encouraging individuals to stand for election as Aldermen be endorsed, with the job specification being reviewed and made publicly available.

Main Report

Background

1. The General Purposes Committee of Aldermen and the Policy & Resouces Committee jointly established a working party to carry out a review of the critieria for eligibility to become an Alderman. The last time this was reviewed was in 2005/06 as part of the comprehensive review of the Mayoralty and it was considered timely for a further review to take place. It was agreed that the

review would include consideration of the current links with the magistracy and issues surrounding pre-election qualifications for Aldermen.

2. The working party (whose constitution and terms of reference are set out in Appendix A) met on two occasions and has now concluded its work. The findings and recommendations contained in this report are those of the Working Party.

Current Position

3. The City Corporation's electoral system is unique, pre-dating Parliament and reflecting the City's history, traditions and unique demography. An Act of Parliament of 1394 provides that Aldermen must be "sufficient Persons of the City of London" and an Act of Common Council of 1714 requires candidates to be "able and sufficient" citizens. The Court of Aldermen retains, although does not exercise, the customary right to determine whether a person returned by the electorate as an Alderman Elect is a fit and proper person and qualified for the office of Alderman.

4. To qualify for the office of Alderman a person must:

   - be aged 18 years or over
   - be a British subject
   - be an able and sufficient citizen and Freeman of the City of London
   - not already an Alderman of another Ward
   - not be disqualified for any other reason, for example, by reason of conviction for an offence relating to a disclosable pecuniary interest

   and must either be:

   - a justice of the peace, or
   - at the time of nomination and election, considered suitable by the Lord Chancellor's Advisory Committee for justices of peace for appointment as a justice of the peace for the Central London Local Justices Area (previously the City Bench).

5. Further details, including the processes involved, are set out in Appendix B.

6. In addition, there is also an entirely voluntary pre-election advisory process that does not affect the requirements referred to above. The object of the process is to provide those who are interested in serving as an Alderman with an opportunity to meet a small panel of senior City Corporation people (including senior Aldermen and the Chairman of the Policy & Resources Committee) with whom they can explore further the role and the likely expectations of them if elected and if they wish to progress to the higher offices of Sheriff and Lord Mayor.

The Need for Review

7. A number of Aldermanic vacancies have arisen in the last 12 months or so. A large proportion of those that expressed an interested in standing were,

however, unsuccessful in the application process to become a magistrate. In the light of this, the question was raised of whether having the magistracy as a pre-election qualification, has prevented candidates who may otherwise have been suitable for the office of Alderman and beyond, from standing for election.

8. This prompted the General Purposes Committee of Aldermen to call for a review of the link with the magistracy as a requirement for election as an Alderman, including severing the link altogether, on the basis that it could be preventing otherwise suitable Aldermanic candidates coming forward for two reasons:

- individuals are deterred as a result of the time commitment involved. (It should be noted that there is an agreement to confine Aldermen to minimum sittings which is not a usual arrangement); and/or
- by their being unwilling or unable to gain approval as potential magistrates from the Lord Chancellor's Advisory Committee.

9. If, for whatever reason, approvals by the Lord Chancellor's Advisory Committee become too difficult, a real concern would arise that either the Lord Chancellor's Advisory Committee was determining who might become Aldermen or that sooner or later the number of candidates for the office of Lord Mayor and/or Sheriff would become less than desirable.

Options for Change

10. In view of the position outlined above, the Working Party looked at a number of options for changing the current pre-election requirement. The options included, amongst others, maintaining the status quo, the introduction of a mentoring process (to help candidates familiarise themselves with the expectations of the Lord Chancellor's Advisory Committee), the removal of the requirement for candidates to be JPs, the election of 25 Aldermen by Common Councilmen from amongst the Common Council and the introduction of an alternative pre-election requirement.

11. The Working Party did not support any option requiring primary legislation. This would be necessary if, for example, it were decided to change radically the election process to one whereby Aldermen are elected by Common Councilmen from amongst the Common Council. Nor was the Working Party minded to break the link with the magistracy which has existed for some considerable time and still fulfills a valuable role in the pre-election process. It was, however, accepted that simply maintaining the staus quo would not address the issues referred to above.

12. Having given careful and detailed consideration to the various options, the Working Party concluded that introducing alternative pre-election requirements for Aldermanic candidates was the most practical and appropriate solution. Advice from leading counsel confirmed that it would be lawful to have a suitability condition and a pre-election screening process for Aldermanic candidates as an alternative to the magistracy, providing such a process was "transparent, fully reasoned and rigorously confined to suitability in relevant respects and in accordance with objective and publicised criteria".

13. Detailed consideration was given to possible criteria that could be used for assessing candidates to ensure their suitability for the Office which included asking questions concerned with probity and achievment in public service. The Working Party was, however, concious of the need for objectivity and felt that assessing candidates on subjective criteria such as how successful they have been in their career or in any charitable activity with which they are invovled was not sustainable and would be open to challenge.

14. The Working Party, therefore, concluded that, as an alternative to the existing pre-election qualification (the magistracy), Aldermanic candidates should be also be eligible to stand for office provided they meet objective criteria that are transparent, fully reasoned and publicly available. It would be open to individuals to choose whether to qualify for election by becoming a magistrate or by satisfying the proposed new criteria; a failure to meet one or the other would render them ineligible for election.

New Criteria

15. An advantage of the magistracy as a pre-election qualification is the test applied to help ensure that applicants are of good character (it is unlikely that an individual will be taken on as a JP if they have been found guilty of a serious crime, found guilty of a number of minor offences, banned from driving in the past 5 to 10 years or declared bankrupt). This is an objective test which is a principal factor in determining whether someone is 'able and sufficient' to become an Alderman and potentially Lord Mayor.

16. Under the Police Reform and Social Responsibility Act 2011, there are a number of disqualifications that apply to candidates for the new role of Police & Crime Commissioner; for example, having ever been convicted of an imprisonable offence (even if not actually imprisoned or the conviction spent) or being subject of a bankruptcy retriction order. Whilst the requirement to have a PCC does not apply in London, arguably the Lord Mayor can be considered an equivalent in view of his or her role as head of the City Corporation including in its capacity as a Police Authority.

17. This view was reinforced recently by the Home Secretary. A statutory procedure has been put in place to enable those elected as PCCs together with the Deputy London Mayor responsible for the Mayor's Office for Policing and Crime to receive sensitive information governed by the Official Secrets Act. To put the City in the same position as the rest of the country, the Lord Mayor and the Chairman of the Police Committee as recipients of such information were designated as representatives of the Court in respect of information covered by the Act.

18. Introducing similar criteria *(ie: persons are disqualified from standing for election as Alderman if on the day of their nomination and on the day of election they have ever been convicted of an imprisonable offence even if they were not actually imprisoned or the conviction has been spent or if they are subject of a debt relief restrictions order or interim debt relief restrictions order, a bankruptcy restriction order or interim order, or a debt relief*

restrictions undertaking – which covers corrupt or illegal electoral practices and offences relating to donations), would have the following advantages:

- They would be legitimate and defensible pre-election conditions to impose on Aldermanic candidates who might go on to become elected to the high office of Lord Mayor;
- they would be transparent, objective and sustainable tests;
- they would help to satisfy the requirement to establish whether a candidate is able and sufficient;
- they would not involve any primary legislation and implementation would be dependent on an Act of Common Council.

19. Under this 'twin-track' arrangement and as stated above, candidates would be able to choose whether to qualify for election as a justice of the peace or alternatively, qualify on the basis that they meet the above critieria. A full set of the proposed qualifications and disqualifications for being eligible to stand for election is set out in Appendix C.

20. Individuals cannot also stand for election to be a PCC if they have been disqualified under the Representation of the People Act 1983 (which covers corrupt or illegal electoral practices and offences relating to donations). The Working Party asked for this disqualification to also apply to Aldermanic candidates, which it does in any event.

21. In order for these new arrangments to take effect, it will be necessary for an Act of Common Council to be passed and a draft Bill for an Act is attached at Appendix D. If approved, this will be read by the Court of Common Council for a first and second time on 25 April 2013 and for a third and final time on 16 May 2013.

22. In drafting the Bill, the opportunity has been taken to make consequential amendments the current arrangements in one or two areas to help simplify and improve the process. Candidates who opt to qualify through the magistracy route will, in future, be expected to be appointed as a JP in advance of their candidature rather than seek appointment at the time of a vacancy (there will be no need for candidates to be considered suitable specifically by the Lord Chancellor's Advisory Committee for justices of peace for appointment as a justice of the peace for the Central London Local Justices Area). This will avoid the sometimes lengthy delays to the election process that can occur. In addition, candidates are currently required to meet the Recorder of London to gain a better understanding of the role of Alderman. We believe that this is no longer an essential part of the process since there are now other informal methods, such as briefings, available to people wishing to learn more about the role.

Tenure of Office

23. Currently, Aldermen are elected for life (but submit themselves for re-election every six years). The Court of Aldermen has, however, adopted a covention

whereby Aldermen retire at the age of 70, which is broadly the age limit at which a person can no longer serve as a magistrate. This is an entirely voluntary arrangement. The Law Officers have been asked by the General Purposes Committee of Aldermen to consider whether it would be lawful to impose a compulsory retirement age on Aldermen by an Act of Common Council. The Officers have concluded that whilst the current convention of retirement at 70 can be continued under both existing and proposed arrangements it would not be possible to impose a legally binding retirement age without an act of Parliament. A copy of the opinion is attached at Appendix E.

The Impact of change for on-going elections

24. At the time of writing, Notices of Aldermanic Vacancies have been published in respect of the Wards of Lime Street, Bassishaw, Farringdon Without and Broad Street (although the latter is less well-advanced in the process than the other three). Notices of Elections in these four Wards have not, to-date, been published.

25. Subject to Members approving the recommendations in this report, the earliest that the new arrangements could be brought into effect is by an Act of Common Council passed on 16 May 2013 and the new provisions will not be applied to elections for which a precept has already been issued. In other words, the new arrangements will not apply to elections that have already commenced.

Helping Candidates to be Prepared

26. Bearing in mind that a number of applicants to become a magistrate had been unsuccessful in recent times, the Working Party is of the view that, for candidates choosing to qualify for election in this way, the provision of some guidance to assist in them in preparing for the application process may enhance their chance of success. Draft notes have been prepared based on publicly available sources of information with the aim of offering some form of objective guidance to applicants to help them appreciate the qualities and understanding that the Advisory Committee is looking for from potential magistrates. This would be on the basis that the guidance and support would be publicly available. The guidance is being produced and can be made available to those enquiring.

27. The advantage of this proposal is that it is a relatively simple and straightforward way of improving the chances of success by applicants to become a magistrate, thereby helping candidates for election as Aldermen meet the required criteria. Any additional advice or guidance that may be provided by Members would be a matter for them and would not be provided by the City Corporation.

Encouraging Individuals to Stand

28. In the absence of any pre-election criteria that includes subjective tests such as the success of a candidate in their chosen career, there is no means of being able to take into account an individual's suitability for the position of Alderman or indeed Lord Mayor, in terms of their experience or understanding of the role.

29. The Working Party agreed that one way to help ensure that candidates with the experience, aptitude and qualities necessary to undertake the role is for Members (both Aldermen and Common Councilmmen) and the Livery to be proactive in identifying and encouraging such individuals to come forward. Members are often best placed through their networks and contacts to know people that have a thorough understanding of the City, a willingness to make a commitment to public service and all the qualities necessary to make a good Alderman and potentially a Lord Mayor.

30. Having a dedicated and consistent approach would help ensure that whenever there is a vacancy there are individuals willing to stand for election that Members consider have the qualities to be an Alderman.

Conclusion

31. The Working Party concluded that the current sole pre-election qualification (the magistracy) is not sustainable and officers have, therefore, investigated alternative options for an objective and defensible criteria and test for becoming an Alderman.

32. The magistracy as a pre-election qualification is currently a key test to help establish whether Aldermanic candidates are of good character (it is unlikely that an individual will be taken on as a JP if they have been found guilty of a serious crime, found guilty of a number of minor offences, banned from driving in the past 5 to 10 years or declared bankrupt). The proposal contained in this report is for an alternative 'twin-track' test to the magistracy as a pre-election qualification. Individuals wishing to stand for election will be able to choose whether to qualify by a) becoming a JP, or b) by satisfying objective criteria that would otherwise disqualify them including whether they have ever been convicted of an imprisonable offence even if they were not actually imprisoned or the conviction has been spent or if they are subject of a bankruptcy retriction order etc. This new criteria is based on the conditions that govern the election of Police and Crime Commissioners which is relevant bearing in mind the position of the Lord Mayor as head of the City Corporation including in its capacity as a Police Authority.

33. Finally, the advantages of Members (both Aldermen and Common Councilmen) being proactive in consistently identifying and encouraging individuals who have the attributes and qualities to be an Aldermen have been highlighted.

Appendices

- Appendix A – Constitution and Terms of Reference of the Aldermanic Eligibility Working Party.
- Appendix B – The Requirements to become an Alderman.
- Appendix C – Proposed Qualifications and Disqualifications for standing as an Alderman.
- Appendix D – Bill for an Act of Common Council.
- Appendix E – Law officers Opinion – Age of Retirement for Aldermen

Simon Murrells
Assistant Town Clerk

T: 0207 332 1418
E: simon.murrells@cityoflondon.gov.uk

APPENDIX A

The Constitution and Terms of Reference of the Working Party set up to review the Criteria for Eligibility to become an Alderman

The Working Party comprised the following Members:

Mark Boleat (Chairman of the Policy & Resources Committee) (Chairman)

Alderman Sir Robert Finch (Chairman of the General Purposes Committee of Aldermen)

Alderman Sir David Howard (Chairman of the Privileges Committee of Aldermen)

Deputy Ken Ayers (Chief Commoner)

Deputy Douglas Barrow

Simon Duckworth

Stuart Fraser

Deputy Bill Fraser

Alderman David Graves

Alderman Ian Luder

Julian Malins

The Working Party's terms of reference are:

"To undertake a review of the criteria for eligibility to become an Alderman"

APPENDIX B

The requirements to become an Alderman

1. To qualify for the office of Alderman a person must be:

- aged 18 years or over
- a British subject
- an able and sufficient citizen and Freeman of the City of London
- not already an Alderman of another Ward
- not be disqualified for any other reason

and must either be:

- a justice of the peace, or
- at the time of nomination and election, considered suitable by the Lord Chancellor's Advisory Committee for justices of peace for appointment as a justice of the peace for the Central London Local Justices Area (previously it was the City Bench).

2. There is no requirement to reside within the Ward for which the candidate seeks election and no requirement that the person is an owner or occupier of premises within the City.

3. Candidates who are not already a justice of the peace for the Central London Local Justices Area must:

- give signed written notice of intention to apply to the Advisory Committee, to the Town Clerk within 20 working days of the Notice of Vacancy.
- contact the Secretary to the Lord Chancellor's Advisory Committee to obtain forms of application to be a justice of the peace for the Central London Local Justices Area. The application should be made as soon as possible but in any event by not later than 27 working days if the Notice of Vacancy by which date forms should have been returned, fully completed, to the Secretary to the Advisory Committee.

4. Candidates who are already a justice of the peace for the Central London Local Justices Area bench do not have to take any action with regard to the Lord Chancellor's Advisory Committee.

5. If no signed written notification of an intention to make an application to the Advisory Committee is received by the Town Clerk by the relevant date, the Wardmote and possible poll will take place within 42 working days.

6. If signed written notification of an intention to make an application to the Advisory Committee is received by the Town Clerk by the relevant date then the Wardmote will not take place until all applications have been dealt with by the Advisory Committee and when notification has been received by the Town Clerk of all relevant decisions, or notification has been received that candidates have withdrawn or are not otherwise proceeding.

7. In cases where the Town Clerk is notified by the Advisory Committee that a Candidate has not been approved by the Lord Chancellor as suitable to become a Justice of the Peace, the Town Clerk will write to the Candidate and ask for them to confirm in writing, within seven days, whether they intend to appeal the decision in respect of this particular election.

8. If a Candidate decides to appeal the decision in respect of this particular election, the Wardmote and possible poll will be delayed while the appeal is heard under whatever process has been set up by the Ministry of Justice.

9. If a candidate decides not to appeal against the decision in respect of this particular election, the election process will continue in accordance with the election timetable. The Candidate may however still appeal against the decision if they wish to secure approval for future Aldermanic elections.

APPENDIX C

Proposed Qualifications and Disqualifications for standing as an Alderman

1. To qualify for the office of Alderman, a person must, at the date of nomination and on the day of election:

- be aged 18 years or over; and
- be a British Subject;
- be an able and sufficient citizen and Freeman of the City of London;
- not already an Alderman in another Ward;
- not be disqualified for any other reason;

and either

- A justice of the peace

or

- *A person is qualified for office of Alderman provided that they are not or have never been:*

  i. *convicted of an imprisonable offence (even if they were not actually imprisoned or the conviction has been spent) and*

  ii. *the subject of a debt relief restrictions order or interim debt relief restrictions order, a bankruptcy restrictions order or interim order, or a debt relief restrictions undertaking.*

Note: the proposed new disqualifications are highlighted in italic font – all other qualifications and disqualifications are pre-existing.

APPENDIX D

To be considered at the Court of Common Council

2013

A BILL

For an Act of Common Council to –

Make further provision for the qualification of candidates for the office of Alderman of the City of London.

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) It is a qualification for election to the office of Alderman of the said City that candidates must be suitable for appointment as justices of the peace on the City bench and it is desirable to provide for an alternative to this qualification, without prejudice to the position of the Lord Mayor as Chief Magistrate of the said City;

(3) Section 3 of an Act of Common Council made and passed on the 10th day of September 1998 (in section 1 of this Act referred to as "the Act of 1998") as substituted by section 2 of an Act of Common Council made and passed on the 4th day of June 2001 (in section 1 of this Act referred to as "the Act of 2001") made provision as to candidature for the office of Alderman of the said City and it is desirable and in accordance with the purposes hereinbefore recited to amend these provisions;

(4) It is also desirable to make certain incidental and consequential amendments to the above Acts and to an Act of Common Council made and passed on the 14th day of July 1960 (in section 1 of this Act referred to as "the Act of 1960");

(5) 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 –

"The Act of 1960" means an Act of Common Council made and passed on the 14th day of July 1960 and entitled *"An Act of Common Council to repeal the Acts of Common Council made and passed on the second day of December 1920 and the nineteenth day of September 1957 respectively; to amend the Acts of Common Council made on the tenth day of October 1663; and to make further and better provision governing the election of Aldermen, Common Councilmen and Ward Beadles of the City of London"* as amended;

"The Act of 1998" means an Act of Common Council made and passed on the 10th day of September 1998 and entitled *"An Act of Common Council to make further provision for the qualification of candidates for the office of Alderman of the City of London and amend further for such purpose an Act of Common Council made and passed on the fourteenth day of July 1960 relating to the election of Aldermen; provide for the approval of persons elected to that office; abolish fines and penalties upon Aldermen and disapply provisions of an Act of Common Council made on the seventeenth day of April 1812; provide for the governance of precedence or seniority of Aldermen and to amend an Act of Common Council made and passed on the twenty-first day of July 1932 relating to the nomination and election of Sheriffs of the City of London; and make further provision for vacancies among and the numbers of Common Councilmen"* as amended;

"The Act of 2001" means an Act of Common Council made and passed on the 4th day of June 2001 and entitled *"An Act of Common Council to make further provision for the qualification of candidates for the office of Alderman of the City of London; provide further as to the surrender of that office and the effect of such surrender; and make further provision for vacancies among and the numbers of Common Councilmen"*.

Candidature for the Office of Alderman

2. Section 2 of the Act of 2001 (Candidature for the Office of Alderman) is repealed and section 3 of the Act of 1998 (Candidature for the Office of Alderman) shall be omitted and substituted by the following –

"3. (1) Without prejudice to the provisions of an Act of Common Council made on the fifteenth day of April 1714 (which provide that candidates for the office of Alderman must be of full age, British subjects, able and sufficient Citizens and Freemen of the City and not already Aldermen but are modified by subsection (6) below), such candidates shall at the time of their nomination and election satisfy the requirements of either subsection (2) or subsection (3) below, or both.

(2) Candidates shall satisfy the requirements of this subsection if they are justices of the peace.

(3) Candidates shall satisfy the requirements of this subsection if they –

(a) are not the subject of a debt relief restrictions order, an interim debt relief restrictions order, a bankruptcy restrictions order, a bankruptcy restrictions interim order or a debt relief restrictions undertaking, and

(b) have not been convicted in the United Kingdom, the Channel Islands or the Isle of Man, of any imprisonable offence (whether or not sentenced to a term of imprisonment in respect of the offence).

(4) Candidates shall, on the request of the Town Clerk, produce such evidence as is necessary to establish to his satisfaction that the condition stated in subsection (1) is met.

(5) The Town Clerk may disclose for any purposes related to the nomination or election of a candidate for the office of Alderman whether he has seen evidence of the kind to which subsection (4) relates.

(6) The Act of Common Council made on the fifteenth day of April 1714 referred to in subsection (1) shall apply to Aldermen to whom section 3A(1) of an Act of Common Council made on the 14th day of July 1960 (as amended) relates as if they were not already Aldermen."

Minor, incidental and consequential amendments

3. In section 4(i) of the Act of 1998 and section 1 of the Act of 1960 (Interpretation) the following words shall be omitted –

""Advisory Committee" means the Lord Chancellor's Advisory Committee for justices of the peace in the City of London;

"City bench" means the bench of justices of the peace for the City of London;

"the Recorder" means the Recorder of London from time to time; and"

4. Section 1 of the Act of 1998 (Interpretation) shall be omitted and substituted by the following –

"1. In this Act –

"bankruptcy restrictions interim order" means a bankruptcy restrictions interim order under paragraph 5 of Schedule 4A to the Insolvency Act 1986 or any re-enactment thereof;

"bankruptcy restrictions order" means a bankruptcy restrictions order under paragraph 1 of Schedule 4A to the Insolvency Act 1986 or any re-enactment thereof;

"debt relief restrictions order" means a debt relief restrictions order under paragraph 1 of Schedule 4ZB to the Insolvency Act 1986 or any re-enactment thereof;

"debt relief restrictions undertaking" means a debt relief restrictions undertaking under paragraph 7 of Schedule 4ZB to the Insolvency Act 1986 or any re-enactment thereof;

"imprisonable offence" means an offence –

(a) for which a person who has attained the age of 18 years may be sentenced to a term of imprisonment, or

(b) for which, in the case of such a person, the sentence is fixed by law as life imprisonment;

"interim debt relief restrictions order" means an interim debt relief restrictions order under paragraph 5 of Schedule 4ZB to the Insolvency Act 1986 or any re-enactment thereof; and

"Town Clerk" shall have the meaning set out in Section 4 (Amendment to Procedures for the Election of Aldermen, etc.)."

5. Section 4 of the Act of 1960 (Aldermen – As to holding of Wardmote) (substituted by section 4(2) of the Act of 2001) shall be omitted and substituted by the following –

"4. Within forty-two working days next after the holding of such Court of Lord Mayor and Aldermen as is referred to in section 3, or in the case of an offer to surrender the Office of Alderman within forty-two working days next after the acceptance by the said Court of the offer to surrender, the Lord Mayor shall cause a wardmote to be summoned and held for the election of an able and sufficient Citizen and Freeman of the said City (either not being an Alderman or being an Alderman to whom section 3A(1) relates) and meeting the condition set out in section 3(1) (Candidature for the Office of Alderman) (as substituted) of an Act of Common Council made and passed on the 10th day of September 1998 to be Alderman of the ward wherein a vacancy for the said Office has arisen as aforesaid and the Lord Mayor shall return such person so elected as aforesaid to the first Court of Lord Mayor and Aldermen holden next after seven clear days following such election."

6. Section 4A of the Act of 1960 (Provision as to periods for the purposes of Section 4) (substituted by section 4(3) of the Act of 2001) shall be omitted and substituted by the following –

"4A. In section 4 "working days" shall exclude Saturdays, Sundays and public holidays (whether of a recurring nature or permitted nationally for any specific reason)."

7. Section 4B of the Act of 1960 (Aldermen – as to holding of Wardmote - Supplementary) (inserted by section 4(iv) of the Act of 1998) is repealed.

Commencement

8. (1) Subject to subsection (2) below, 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.

(2) The provisions of this Act shall not apply to any election for which a precept has already been issued, which shall be conducted as if this Act had not been made and passed as an Act of Common Council.

APPENDIX E

Retirement Age and Six-yearly Elections for Aldermen of the City of London

Opinion of the Law Officers

1. At their meeting on 11 February, 2012, the General Purposes Committee of Aldermen resolved to introduce a pre-election qualification for the office of Alderman as an alternative to the existing requirement that candidates for the office of Alderman must be considered suitable by the Lord Chancellor's Advisory Committee for appointment as a justice of the peace in the City. The alternative pre-election qualification, which will be introduced by Act of Common Council, requires candidates, by application to the Town Clerk, to demonstrate that they satisfy probity and public service requirements which are relevant to the office of Alderman.

2. The current convention of a retirement age of 70 for Aldermen is linked to service as a magistrate. The main purpose of this convention is to maintain a reasonable flow of candidates for the office of Lord Mayor. The introduction of an alternative qualification thus raises the question whether a retirement age of 70 can be introduced for all Aldermen, regardless of the route by which they qualified for office.

3. Another convention of the Court of Aldermen is that Aldermen surrender office every six years and may seek re-election. The purpose of this convention is to maintain the democratic legitimacy and accountability of the office.

4. Aldermen have always held office for life except for a brief period from 1377 to 1394 when a Charter of Edward II declared that aldermen serve for only one year and a later Charter of Richard II provided that they may be re-elected annually. An Act of Parliament of 1394 reinstated the old custom, providing that Aldermen cannot be removed from office "without good and reasonable cause". It is considered that the power of removal conferred by the Act is limited to removal of individual aldermen who fail to meet expected standards of probity or conduct and does not extend to introducing, by Act of Common Council or binding contract, a compulsory retirement age requiring aldermen to resign at a particular age or a requirement to surrender office every six years. Such requirements could only be introduced by a further Act of Parliament.

5. Currently, newly-elected Aldermen are asked to sign a letter which confirms that they have read and understood the conventions of the Court of Aldermen. It has been suggested that this position could be strengthened in relation to the conventions referred to above by requesting instead a signed irrevocable deed by which the Alderman resigns on a future date, being the Alderman's 70th birthday. The deed would also commit the Alderman to surrender his or her office at six-yearly intervals.

6. For the reasons given above, execution of such a deed could not be made compulsory and, once executed, it would be binding in honour only. However if the Court of Aldermen is of the view that this would be an improvement on the current position, there is nothing as a matter of law to prevent it. The introduction of an alternative test by which eligibility is established would not prevent the continuation of the convention of retirement at 70.

Recorder

Common Serjeant

Comptroller & City Solicitor

Remembrancer