

Committee(s) Policy & Resources Committee – for information	Dated: 22/02/2024
Subject: Decisions taken under delegated authority or urgency powers	Public
Which outcomes in the City Corporation’s Corporate Plan does this proposal aim to impact directly?	See Background Report
Does this proposal require extra revenue and/or capital spending?	See Background Report
If so, how much?	See Background Report
What is the source of Funding?	See Background Report
Has this Funding Source been agreed with the Chamberlain’s Department?	See Background Report
Report of: Town Clerk	For Information
Report author: Chris Rumbles, Town Clerk’s Department	

Summary

This report advises Members of action taken by the Town Clerk in consultation with the Chairman and Deputy Chairman, in accordance with Standing Order Nos. 41(a) and 41(b).

Main Report

Urgent Decision: Amendment to Standing Orders to reflect repeal of Section 618 of the Housing Act 1985

BACKGROUND:

Section 618 of the 1985 Act, which applied uniquely to the City of London, provides that the Common Council may establish a Committee to discharge its functions under the Act consisting of such persons as it sees fit. That provision continues to be required for the Common Council’s discharge of its housing functions. Subsections (3) and (4), however, provided:-

“(3) A person is not, by reason only of the fact that he occupies a house at a rental from the Common Council, disqualified from being elected or being a member of that Council or any committee of that Council; but no person shall vote as a member of that Council, or any such committee, on a resolution or question which is proposed or arises in pursuance of this Act or the Housing Associations Act 1985 and relates to land in which he is beneficially interested.

(4) A person who votes in contravention of subsection (3) commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale; but the fact of his giving the vote does not invalidate any resolution or proceeding of the authority.”

Members of the then Standards Committee and the Policy and Resources Committee initially instructed the Remembrancer in March 2020 to look into the possibility and implications of pursuing a repeal of these provisions. Legislation was finally passed in December 2023 repealing the relevant part of section 618 of the Housing Act 1985 and, as such, the Governance and Member Services Team, following correspondence with the Comptroller & City Solicitor and the Remembrancer, wrote to all Members to set out the new position as follows:

“The provisions of s.618 of the Housing Act 1985 which made it a criminal offence for a member to vote on housing management issues in relation to land in which they were beneficially interested have now been repealed. These provisions previously imposed an additional restriction on voting which could not be over-ridden by a dispensation.

The position now is that if a decision would engage a member’s disclosable pecuniary interest (DPI) in land i.e. where the matter before the meeting could reasonably be said to appear to be likely to affect their DPI, or where a member of the public would consider that they might be influenced by their DPI, then it is likely that they will have a DPI in the matter being considered and may not speak or vote without a dispensation.

That means:

1. There are no restrictions on speaking or voting where a member does not have a DPI in the matter being considered.
2. If they do have a DPI in the matter being considered then current dispensations to speak and/or vote apply.
3. A member may seek a new dispensation to speak and/or vote, which will be considered according to the published criteria.
4. If in doubt they should seek advice.”

Members were also informed that, as a result of this change in legislation, our own governance document entitled ‘Policy and Guidance on the Granting of Dispensations’ which can be found on our public webpages would require a minor editorial change through the deletion of paragraphs 22 and 23, which referred to the now repealed provisions of section 618. The permission of the Comptroller & City Solicitor, in consultation with the Chief Commoner (as Chair of MDSSC) and the Chairman of Policy & Resources Committee, was duly sought to make this minor editorial change without further delay. Permission was granted and the amended version is now publicly available to all.

Members were further informed that similar tweaks would be required to our Standing Orders to delete the equivalent restriction on voting that mirrored section 618 (at SO44(2)). This Standing Order currently states that:-

2. If a matter for decision relating to the City of London Corporation’s Housing or Barbican Residential Estates is under consideration by the Court, or any Committee thereof, which relates to land in which a Member has a beneficial interest they:-

(a) must declare the existence and nature of their interest;

(b) subject to the provisions of the Localism Act 2011 and the Members' Code of Conduct in relation to interests may speak but not vote thereon.

Under SO44(1) Members would still be required to act in accordance with the provisions of the Localism Act 2011 and the Members' Code of Conduct where they have an interest.

Any proposal to amend Standing Orders must be considered by the Policy & Resources Committee whose recommendations shall be reported to the Court for approval. Thereafter, the Town Clerk is authorised to make the necessary amendments.

Officers considered that the use of urgency procedures in this case would provide for timely amendment of our relevant, internal, governance documents in order to provide consistency and clarity to all in terms of the new position on this matter.

REASON FOR URGENCY:

There was potential for some confusion as to the City Corporation's internal position/guidance offered on this matter in delaying the updating of our relevant Corporate Governance documents until the next formal Court of Common Council meeting in March 2023 given that all elected Members have now been issued with a summary of the revised position and that the law around this has already changed. Many Members are keen to see our own documentation amended in line with the new legal position as soon as possible.

RECOMMENDATION(S):

That the Town Clerk, in consultation with the Chairman and Deputy Chairman of both the Member Development and Standards Sub-Committee and the Policy and Resources Committee resolved to recommend to the Court of Common Council that the necessary amendment to Standing Orders (e.g. the deletion of SO 44(2)) be made without further delay to reflect the current legal position following the repeal of subsections (3) and (4) of Section 618 of the Housing Act 1985.

In accordance with Standing Orders 41 (a) and 41 (b), Members are asked to note the recent decision taken by the Town Clerk in consultation with the Chairman and Deputy Chairman.

Copies of background papers concerning this decision are available from Chris Rumbles on request.

Contact:

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