

Report – Policy & Resources Committee

Report of Urgent Action Taken: Amendment to Standing Orders to reflect repeal of Section 618 of the Housing Act 1985.

To be presented on 7th March 2024

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

SUMMARY

This report sets out action taken in accordance with Standing Order No. 19, to make editorial changes to the Court of Common Council's Standing Orders to reflect the repeal of provisions within Section 618 of the 1985 Housing Act.

MAIN REPORT

1. Section 618 of the 1985 Housing Act, which applied uniquely to the City of London Corporation, provided that the Common Council may establish a Committee to discharge its functions under the Act consisting of such persons as it sees fit. 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.”

2. 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 legal position.
3. 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minor editorial change through the deletion of paragraphs 22 and 23, which referred to the now repealed provisions of section 618.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.

4. Members were further informed that amendments would be required to the Court of Common Council's Standing Orders, to delete the restriction on voting that mirrored Section 618 (at SO44(2)). Standing Order 44(2) stated that:-

“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. SO44(2) was, therefore, determined to be excess to requirement as the S618 restrictions were no longer in force. It was therefore proposed that SO44(2) be deleted.

5. Any proposal to amend Standing Orders must be considered by the Policy & Resources Committee whose recommendations shall be reported to the Court of Common Council for approval. Thereafter, the Town Clerk is authorised to make the necessary amendments. In accordance with Standing Order 41, the proposal for amending the Standing Orders was first approved by the Town Clerk in consultation with the Chair and Deputy Chair of both your Member Development and Standards Sub-Committee and Policy and Resources Committee under urgency procedures. Then, in accordance with Standing Order No. 19, the Court of Common Council’s approval was also sought, and approved, under urgency procedures.
6. 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 legal position on this matter.

RECOMMENDATION

We **recommend** that the action taken be noted.

DATED this 1st day of February 2024.

SIGNED on behalf of the Committee.

Deputy Christopher Hayward
Chairman, Policy & Resources Committee