

Committee(s):	Date:	
Standards Committee	23 November 2012	
Subject: Status of Co-opted Members of the Standards Committee		
Report of: Comptroller & City Solicitor		
Summary		
<p>This Committee requested a report confirming the legal position of its Co-opted Members, as regards voting rights and entitlement to stand as Chairman or Deputy Chairman. Under section 13 of the Local Government and Housing Act 1989 Co-opted Members of this Committee shall for all purposes be treated as non-voting Members. However it would be permissible to adopt a system of informal voting as set out in this report. There is nothing to prevent a Co-opted Member being elected as Chairman or Deputy Chairman.</p>		
Recommendation:		
(i) To note the report.		

Main Report

Background

1. This Committee is a Non-Ward Committee consisting of one Alderman, five Common Councilmen and four representatives who must not be Members of the Court of Common Council or employees of the City Corporation – this last category are referred to in this report as “Co-opted Members”.
2. The City Corporation has also appointed three Independent Persons under the provisions of the Localism Act 2011, who have a statutory role under the new standards regime, as set out in previous reports. The Independent Persons are invited to attend meetings of this Committee, but are not Members of this Committee. They cannot vote on any business of the Committee and are not entitled to stand as Chairman or Deputy Chairman.
3. At the last meeting of this Committee, Members were advised that the Co-opted Members were entitled to stand as Chairman or Deputy Chairman, but were not entitled to vote on any business of the Committee. Members requested a report from the Comptroller & City Solicitor confirming this position and exploring whether there was any scope for the Co-opted Members to be given voting rights.

The previous position

4. Until 1 July 2012, section 53 of the Local Government Act 2000 required the City Corporation to establish a Standards Committee, with a membership including at least one person who was not a Member, or an officer, of that or any other relevant authority – in this report referred to as an “Independent Member”.
5. Members will recall that the City Corporation’s Standards Committee had five Independent Members. Section 53 specifically provided that the Standards Committee must be chaired by an Independent Member. It also specifically provided that Independent Members were entitled to vote at meetings of the Standards Committee. These provisions no longer apply to the City Corporation.

The current position

6. In establishing new arrangements to be in force from 1 July 2012, under the provisions of the Localism Act 2011, the Court of Common Council decided to retain a non-statutory Standards Committee. This was done under the general power to discharge functions by Committee contained in section 101 of the Local Government Act 1972.
7. On the recommendation of this Committee, the Court of Common Council decided to include four Co-opted Members within the revised membership of the Standards Committee, drawn from the ranks of the former Independent Members, to preserve a greater degree of independence and objectivity. It was specifically stated in the Court report that any Co-opted Members would not have voting rights. The Court of Common Council must have considered that Co-opted Members could nevertheless carry out a valuable role in influencing the views of this Committee.
8. There is a general power in section 102 of the Local Government Act 1972 to appoint a Committee including persons who are not Members of the City Corporation – this is the power used to appoint the Co-opted Members of this Committee. However, by virtue of section 13 of the Local Government and Housing Act 1989 these Co-opted Members shall for all purposes be treated as non-voting Members. The same provisions apply, for example, to the Co-opted Members of the Audit & Risk Management Committee, who are also non-voting Members. Unfortunately neither this Committee nor the Court of Common Council has the power to override the statutory position and grant Co-opted Members a formal vote. The power of general competence in the Localism Act 2011 is subject to any pre-existing statutory restrictions and is therefore of no assistance here.

9. That having been said, the views of the Co-opted Members are obviously extremely valuable and need to be respected. It would be permissible to adopt a system of informal voting. Where a vote is required the Chairman would first put the matter to an informal vote by all Members of the Committee. This would allow the Co-opted Members to clearly demonstrate their views to all present and the result would be minuted. The matter would then need to be put to a second vote of elected Members only and this vote would stand as the formal decision of the Committee. It would be open to an elected Member to vote differently in each vote should they so wish. In cases where the Committee is making recommendations to the Court then the outcome of the informal and formal votes will be clearly communicated to the Court in the report. Officers are of the view that this is the only lawful method of conferring some form of voting rights upon Co-opted Members.
10. There is nothing to prevent a Co-opted Member being elected as Chairman or Deputy Chairman – although as discussed above they could not exercise a Chairman’s second or casting vote, nor could they represent this Committee at the Court of Common Council.

Conclusion

11. This Committee and the Court of Common Council wished to retain the services of former Independent Members as Co-opted Members under the new regime. Co-opted Members can carry out a valuable role in influencing the views of the Committee, and can be elected as Chairman or Deputy Chairman. It is not possible to grant them formal voting rights, but it would be permissible to adopt a system of informal voting if this Committee wishes to do so.

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