

Committee(s)	Dated:
Standards Committee	8 July 2016
Subject: Interaction between the disciplinary powers of the Chief Commoner, the Aldermanic Chairmen, Guildhall Club, etc. with the work of the Standards Committee	Public
Report of: Comptroller & City Solicitor	For Decision
Report Author: Edward Wood, Principal Legal Assistant	

Summary

This report discusses the disciplinary powers of the Chief Commoner, the Aldermanic Chairmen and the Guildhall Club, and sets out options for how these parties might interact with the Standards Committee going forward, particularly in terms of reporting. This report also considers additional reporting by the Monitoring Officer.

Recommendations

Members are invited to note this report and in particular to consider the options set out at paragraphs 20 and 24.

Main Report

Background

1. At the request of Members, a report was brought to the previous meeting of this Committee on 13 May 2016 setting out the disciplinary powers of the Chief Commoner, the Chairman of the Privileges/General Purposes Committee of the Court of Aldermen and the Guildhall Club. This Committee was invited to consider the report and what action if any to take in relation to its own procedures and practices and its general role of promoting high standards of conduct generally. In particular, Members were asked to consider whether these respective roles and responsibilities, and how they interrelate with the work of the Standards Committee, ought to be set out and, possibly, approved by the Court.
2. Following consideration of that item, Members requested that the Comptroller & City Solicitor produce a further report for submission to this meeting setting out options for how these parties should interact with the Standards Committee going forward, including a requirement that the Chief Commoner report annually on disciplinary matters. There was also support for extending

this reporting requirement to the Chairman of the Privileges/General Purposes Committee of the Court of Aldermen, the Guildhall Club and additionally the Monitoring Officer. Members asked that the Comptroller set out those changes that this Committee itself could implement and those changes that would require the agreement of the Court of Common Council or the Court of Aldermen.

The Chief Commoner

3. The Chief Commoner holds office for one year and acts as a counsellor when required and takes the lead in relation to the scrutiny of training and development opportunities offered to Common Councilmen. He or she actively promotes the aims, values and responsibilities of the City Corporation internally - and externally in support of the Lord Mayor and the Policy Chairman and also takes the lead in relation to all matters of City Corporation hospitality.
4. The office of Chief Commoner, first established in 1444, is unique in that it is the only role now directly elected by the whole Court of Common Council and serves to recognise the contribution the office holder is likely to have made to the City Corporation over a number of years. The Chief Commoner is, therefore, the foremost representative of the elected councillors with regard to their rights and privileges - but equally, seeks to uphold the discipline and integrity of the Court.
5. The role of the Chief Commoner has traditionally included a concern for the welfare and conduct of Common Councilmen. The Chief Commoner's intervention has in the past been a very effective mechanism for resolving problems between members. Since the introduction of standards committees there has been some overlap between this aspect of the Chief Commoner's work and the Standards Committee's responsibility for the assessment, investigation and hearing of complaints of Member misconduct.
6. The Chief Commoner is vested by custom and practice with disciplinary powers although these are not formally documented, as far as officers are aware and can ascertain, other than a reference in the "Job Description" which states that one of the Chief Commoner's functions is to "counsel Common Councilmen, as required, with a view to resolving minor problems and in relation to their rights, requirements and privileges".
7. The Chief Commoner is however generally regarded as having the power to hold Members to account for their behaviour and where appropriate to suspend their entitlement to hospitality or appropriate facilities. As far as officers are aware use of these powers is not documented. There will be boundaries to these powers and the Chief could not, for example, prevent a Member from attending committees or the Court.

The Aldermanic Chairmen

8. At previous meetings of this Committee there has been some confusion as to whether the Chairman of the Privileges Committee of Aldermen, or the Chairman of the General Purposes Committee of Aldermen, performed a similar function to that of the Chief Commoner in relation to the Aldermen.
9. Further inquiries have confirmed that there is currently a collaborative approach, with responsibility being shared between the Chairmen of the two Aldermanic standing committees.
10. We will therefore generally refer to the “Aldermanic Chairmen” collectively in this context in the future, which may involve liaising with, and receiving briefings from, the Chairman of the Privileges Committee and/or the Chairman of the General Purposes Committee.

Current arrangements with the Chief Commoner and the Aldermanic Chairmen

11. In relation to the interaction between the disciplinary roles of the Chief Commoner and the Aldermanic Chairmen, and the work of this Committee, Members will recall that this Committee’s published Complaints Procedure currently states that:-

“INFORMAL RESOLUTION OF COMPLAINTS

9. A complaint may not necessarily be made in writing, for example it may be a concern raised with the Monitoring Officer orally. In such cases, the Monitoring Officer should ask the complainant whether they want to formally put the matter in writing to the Standards Committee. If the complainant does not, the Monitoring Officer should consider the options for informal resolution to satisfy the complainant.
10. This could involve a meeting with the Chief Commoner or Chairman of the Privileges Committee of Aldermen (“the Privileges Chairman”). The role of the Chief Commoner has traditionally included a concern for the welfare and conduct of Common Councilmen and the Privileges Chairman has performed a similar function in relation to Aldermen. Their intervention has in the past been a very effective mechanism for resolving problems between members.
11. There is nothing to stop aggrieved individuals continuing to approach the Chief Commoner or the Privileges Chairman for assistance with the reconciliation of disputes, even where the matter relates to a breach of the code of conduct. This would require the consensus of all parties, as the matter could be referred to the Standards Committee at any time. If a matter in which the Chief Commoner or the Privileges Chairman is involved is subsequently referred to the Standards Committee, he or she should cease to take any action in relation to the matter. A member who is aggrieved with any sanction imposed by the Chief Commoner or the

Privileges Chairman may refer the matter to the Standards Committee for formal consideration.”

12. Members will also recall that it has been the practice in recent years for this Committee to invite the Chief Commoner and the Chairman of the Privileges Committee and/or the Chairman of the General Purposes Committee to one meeting per annum to give a verbal update, in general terms, on any disciplinary matters dealt with during the year. When these arrangements were established, this was considered to be the appropriate mechanism for capturing such matters given that, since the creation of the Standards Committee, these office holders intentionally provide an informal route for the resolution of disciplinary issues, and their conversations with Members can normally be characterised as the giving of advice rather than the imposition of any sort of sanction.
13. At its meeting on 29 January 2016, this Committee requested a written note from the Chief Commoner summarising the complaints that he had dealt with informally during his year in office. This information was sought by the Town Clerk but, as of the date of the last meeting of this Committee on 13 May 2016, had not been forthcoming. This prompted Members to seek clarification from officers as to whether they could require such a written report.

Options for new arrangements with the Chief Commoner and Aldermanic Chairmen

14. Whilst this Committee has a role in promoting high standards of conduct by Members, this relates in particular to compliance with the Code of Conduct agreed by the Court of Common Council. The remit of the Chief Commoner and the Aldermanic Chairmen is wider, in the sense that they may become involved in disciplinary matters that would not constitute a breach of the Code of Conduct.
15. This Committee’s involvement in any particular allegation of misconduct is also dependent upon a formal written complaint being made. The Chief Commoner and the Aldermanic Chairmen can act in the absence of such a written complaint, although as stated in the Complaints Procedure, a matter concerning the Code of Conduct can be referred to the Standards Committee at any time through a written complaint. In this respect therefore, the powers of the Chief Commoner and the Aldermanic Chairmen are effectively exercised with the consent of the parties involved.
16. The current Chief Commoner has made clear that, if a matter is referred to him that represents a potential breach of the Code of Conduct, he will refer that matter to this Committee. However, it is not recommended that this Committee should attempt to fetter the discretion of the Chief Commoner and the Aldermanic Chairmen by seeking to formalise this undertaking, as this would undermine the utility of having an informal complaints mechanism running in parallel with the formal framework overseen by this Committee.

17. It is also important to remember that, under the Localism Act 2011, there is no longer a statutory requirement to have a Standards Committee at all. Under section 28 of that Act, the requirement is that a relevant authority must have in place arrangements under which allegations can be investigated and decisions made.
18. Ultimately, the authority of the Chief Commoner and the Aldermanic Chairmen in relation to disciplinary matters, as with other matters, originates directly from the Court of Common Council and the Court of Aldermen respectively, and is not derived from this Committee. Therefore, any requirement for the Chief Commoner or the Aldermanic Chairmen to provide an annual update to this Committee on disciplinary matters dealt with during the year, or any other changes to the roles and responsibilities of the Chief Commoner and the Aldermanic Chairmen, would require the approval of the appropriate Court.
19. An alternative option, which would not require a formal request to the Court of Common Council or the Court of Aldermen, would be to seek to agree a protocol with the current Chief Commoner and Aldermanic Chairmen. Whilst this would not be binding on their successors, it could be brought to their attention on taking office, and would clearly set out the previously agreed expectations in terms of reporting to this Committee.
20. The options in relation to the Chief Commoner and the Aldermanic Chairmen are therefore to:-
 - (a) Continue to invite the Chief Commoner, and the Aldermanic Chairmen, to provide an annual verbal or written update to this Committee detailing the disciplinary matters dealt with during the year.
 - (b) Seek to agree a protocol with the current Chief Commoner, and Aldermanic Chairmen, setting out the expectations in terms of reporting to this Committee.
 - (c) Request that the Court of Common Council and the Court of Aldermen respectively require the Chief Commoner, and the Aldermanic Chairmen, to provide an annual verbal or written update to this Committee detailing the disciplinary matters dealt with during the year.
 - (d) Substitute a reference to the Aldermanic Chairmen for the existing reference to the Chairman of the Privileges Committee of Aldermen in the Complaints Procedure.

The Guildhall Club

21. The Guildhall Club is an unincorporated association whose objectives are to provide luncheon for members attending committees and other refreshments and to instil a sense of camaraderie amongst its members. All elected Members (and a number of specified office holders) are entitled to be members. Given the purposes of the Guildhall Club it is highly likely that any issues arising in relation to member conduct will occur in the course of their

office as elected Members. The Guildhall Club and the Standards Committee are therefore likely to both have jurisdiction, subject to their powers, in relation to misconduct at the Guildhall Club. Again, there are no formal reporting arrangements, etc. in place between the Guildhall Club and this Committee.

22. The Guildhall Club rules make the following provisions in relation to conduct:-

“2.11 Members and their guests are expected to conduct themselves at all times whilst within the Club’s premises in an exemplary fashion, in particular:

- (i) They must treat other Members, their guests, the Club’s staff and other users of the Club’s facilities with respect;
- (ii) They must behave in a way which reflects well on both the City of London Corporation and the Club;
- (iii) They must be attired appropriately to a smart London Club. In the case of Gentlemen, this should include a jacket and tie. In exceptional circumstances, such as abnormally high temperatures, the Chairman or Deputy Chairman shall have the authority to relax these rules.

2.12 Any Members violating the Rules of the Club, or whose actions are perceived to bring the Club into disrepute, shall be reported to the Club Committee, which shall, if satisfied that a clear violation has taken place and no adequate explanation from the Member complained of is forthcoming, have power to suspend such Member from membership of the Club for such period as they think fit. In the most extreme cases, and then only by a two thirds majority of those members of the Committee present and voting, the Committee may permanently exclude a member from the Club.”

23. As discussed at the previous meeting, despite the very strong links between the Guildhall Club and the City Corporation, this Committee has no authority over the Guildhall Club. As a private members’ club, it is entitled to take action under its rules against its own members, in the same way as any other private members’ club. At the same time it is perfectly clear that, whether or not the Guildhall Club decides to take action over an alleged breach of its rules, this does not prevent this Committee from taking action on the same matter if a formal complaint is made to it and there is deemed to have been a breach of the Code of Conduct.

24. The options in relation to the Guildhall Club are therefore to:-

- (a) Invite a representative of the House Committee of the Guildhall Club to provide an annual verbal or written update to this Committee detailing the disciplinary matters dealt with during the year.
- (b) Insert a reference into the Complaints Procedure stating, for the avoidance of doubt, that whether or not the Guildhall Club decides to

take action over an alleged breach of its rules, this does not prevent this Committee from taking action on the same matter if a formal complaint is made to it and there is deemed to have been a breach of the Code of Conduct.

The Monitoring Officer

25. Members will recall that, at the previous meeting of this Committee, it was suggested that the Monitoring Officer should also report annually on any disciplinary matters involving Members that he had dealt with during the year. However, whilst it is clearly open to the Monitoring Officer to advise individuals of the options for informal resolution of any grievance, of their right to make a formal complaint in relation to an alleged breach of the Code of Conduct and, where appropriate, to refer a matter to the Standards Committee himself, the Monitoring Officer does not personally exercise any formal or informal disciplinary powers in relation to Members.

Conclusion

26. Any requirement for the Chief Commoner or the Aldermanic Chairmen to provide an annual report to this Committee on disciplinary matters, as opposed to the current voluntary arrangements, would require the approval of the Court of Common Council and the Court of Aldermen respectively. A middle way would be to seek to agree a protocol with the current Chief Commoner and Aldermanic Chairmen. The Guildhall Club cannot be directly required to provide an annual report to this Committee on disciplinary matters, although can of course be invited to do so. The Monitoring Officer does not personally exercise any formal or informal disciplinary powers in relation to Members.

Background Papers:

Report to the Standards Committee dated 13 May 2016 entitled 'Powers of the Chief Commoner & the Guildhall Club'.

Contact:

Edward Wood

Principal Legal Assistant

T: 020 7332 1834

E: edward.wood@cityoflondon.gov.uk

Michael Cogher

Comptroller & City Solicitor

T: 020 7332 3699

E: michael.cogher@cityoflondon.gov.uk