



Housing Select Committee

Report title: Co-optee proposals

Date: 12 September 2023

Key decision: No.

Class: Part 1

Ward(s) affected: All

Contributors: Director of Law and Corporate Governance

Outline and recommendations

To consider whether the option of having formal co-opted members on the Housing Select Committee should be pursued.

Timeline of engagement and decision-making

The Housing Select Committee is scheduled to consider this issue on Tuesday 12 September 2023.

Should Members wish to have formal Housing co-optees, time will be required to develop the necessary co-option scheme, identify a budget (if applicable), and seek agreement at meetings of the Constitution Working Party and Council.

1. Summary

- 1.1. The Committee has suggested that it is interested in considering whether one or more Lewisham Homes residents, and potentially residents from other social housing providers, should be co-opted onto the Committee. This report asks Members to consider whether this should be pursued.

2. Recommendations

- 2.1. The Committee is asked to:
 - Consider whether the option of having formal co-optees on the Housing Select should be pursued.

3. Background

- 3.1. Having formal co-optees on scrutiny committees, over and above the statutory co-optees required by law, is one way of increasing scrutiny's access to local insight and understanding of local people and their needs.

Statutory co-optees

- 3.2. All councils responsible for education functions must appoint statutory co-optees to the relevant committee. Such co-optees must have voting rights in relation to education matters but their attendance does not count towards achieving quorum. At Lewisham we have five co-optees: two are appointed by the relevant dioceses – the Church of England and Roman Catholic representatives – and three are parent governor representatives, elected by their peers, one representing primary schools, one secondary schools and one special schools. They sit on the Children and Young People Select Committee (and the Overview and Scrutiny Committee, only attending if education matters are discussed).
- 3.3. In Lewisham the five education co-optees are disregarded for the purposes of political proportionality.
- 3.4. There is a statutory requirement to make provision for non-voting co-opted Members of the designated crime and disorder committee (in Lewisham this is the Safer, Stronger Communities Select Committee – SSCSC) but there is no requirement to appoint. At present, Lewisham does not appoint co-optees to SSCSC.

Non-statutory co-optees

- 3.5. Formal co-option beyond this statutory requirement, is provided for in legislation but local authorities must establish a co-option scheme to determine how individuals will be co-opted onto committees if they wish to have formal co-optees. In Lewisham, the scheme would need to be agreed by the Constitution Working Party followed by Council. Should the Housing Select Committee wish to appoint formal co-optees a proposal would need to be considered and approved by the Constitution Working Party which would in turn make a recommendation to full Council. The agreement of full Council, on the recommendation of the Constitution Working Party, is required for all constitutional changes.
- 3.6. A decision would need to be taken on whether or not the co-optee(s) could vote. Their attendance would not count towards quorum and it is assumed they would be disregarded for the purposes of political proportionality. Consideration would also need to be given to how they would be chosen and if, and how, they would be paid.

4. Considerations

- 4.1. The main benefit of having formal co-optee(s) is the service user perspective they bring. Having permanent, formal co-optees on a scrutiny committee who represent service users and are able to vote on key matters, can provide the committee with valuable insight into the opinions and needs of service users. This input can also be achieved in other ways, informally for example or via expert witness testimony, but creating a formal position may more concretely signal the Council's commitment to understanding and reflecting the voice of service users.
- 4.2. There are, however, some disadvantages to having formal co-optees. Formal co-option may be a poor use of the co-optees' time. The Housing Select Committee has a wide remit beyond social landlord activity and there may not be items at every meeting which reflect the areas of the co-optees' expertise or interest. Attending formal evening meetings may also be onerous and/or daunting.
- 4.3. Furthermore, Councillors are elected and they sit on council scrutiny committees with a strong democratic mandate to represent their constituents. Depending on how they are

chosen, permanent formal co-optees with voting rights may be unelected (or elected by their peers from a relatively small pool) so there may be a democratic deficit. Ensuring they have a broad mandate and represent a wide spectrum of service user views, rather than reflect (and speak/vote in support of) narrow interests only, may be difficult.

Practical considerations

How Many?

- 4.4. If the Council wishes to establish a formal co-option scheme for the Housing Select Committee, thought will need to be given to how many co-optee positions to create. Matters to consider:
- *Representation:* Lewisham Homes only, or Lewisham Homes and Regeneter B3, or will a number of social landlords be represented?
 - *Tenure:* Tenants only or tenants and leaseholders?
 - *How many positions:* for example, one position per landlord regardless of tenure or one position per landlord per tenure or one position for a single person regardless of tenure or landlord?

Eligibility

- 4.5. Linked to the number of positions is the eligibility criteria. As suggested above, would the position only be open to Lewisham Homes residents? Would it be for tenants only or would leaseholders also be eligible? Would the co-optee need to have been a resident for a certain length of time to be eligible? Would the co-optee need to be a minimum of 18 years old?

Selection

- 4.6. The statutory Education Co-optees are either appointed by their diocese or elected by their peers in an election run by the Council's Governor Support Service. Consideration would need to be given as to how Housing Co-optee(s) would be chosen, in order that they are 'representative' of Lewisham Homes/other social landlord tenants/leaseholders and therefore have a 'mandate'. The position(s) could be offered to residents already occupying an existing elected role such as the Chair of the relevant Tenant and Residents Association (TRA) or that association could be asked to nominate someone. If the position was to be directly elected to, officers would need to be identified to administer and run the election and this would incur a cost.

Term of office

- 4.7. The co-optee(s)' length of office would also need to be considered (for example would this be a set term such as four years in line with the parent governor education co-optees or, if applicable, would it be tied to the length of an associated role, e.g. if the co-optee position is given to a role rather than a person, such as the Chair of a TRA).

Allowances

- 4.8. The five statutory education Co-optees are paid £600 a year from the Member Allowances Budget held by the Governance and Committee Services Team.
- 4.9. If Housing Co-optee position(s) are created, consideration would need to be given to whether they should receive a similar amount. Additional budget to support this would need to be created.

Speaking and voting rights

- 4.10. Consideration would need to be given to the range of items the co-optee(s) could speak on and whether this would be all agenda items before the Housing Select Committee or items relating to their social landlord only. In terms of voting, formal co-optees can be voting or non-voting. (However, if they are non-voting, consideration would need to be given as to whether the administrative and budget costs of creating a formal non-

voting co-optee position would be worthwhile because, in practice, a social landlord resident issued with a standing invitation to attend and contribute to committee discussions would be able to have the same input as a formal co-optee without voting rights). If voting rights are granted, consideration would need to be given to the range of issues on which the co-optee could vote on, in particular, if voting would be restricted to matters relating to their social landlord only or if they would be free to vote on any matter on the agenda.

Conflicts of interest

- 4.11. Formal co-optees with or without voting rights will have to declare any relevant significant interests in the business being discussed at the meeting. Whether or not the interest is a significant interest under the Councillor's Code of Conduct (which would apply to them) will depend on the circumstances, including whether a member of the public would reasonably consider it as likely to affect the individual's ability to act in the public interest. Depending on the matter under consideration it is possible that a formal Lewisham Homes co-optee, for example, may have to declare a prejudicial interest with respect to certain Lewisham Homes items and leave the room. This may impact on the utility of having them as a co-optee.

Other Social landlords

- 4.12. Should a formal co-optee position be created for one social landlord only (such as Lewisham Homes) the Council would need to consider the justification for creating this formal co-optee position but not creating one for tenants/leaseholders from Regenter B3 (where the Council is also the freeholder). Tenants/leaseholders of other social housing landlords in the borough may also feel that their voice is not being heard equally.

5. Other options

- 5.1. There are alternatives to having a formal co-optee(s) on the Housing Select Committee that Members may wish to consider:

Informal attendees

- 5.2. In Lewisham a representative of HealthWatch Lewisham attends meetings of the Healthier Communities Select Committee and is treated like a member of the committee (with a standing invitation to all meetings and a standing invitation to speak). There is no practical difference between what a non-voting formal co-optee and an 'informal' attendee can do at a scrutiny meeting. The difference is the terms and conditions placed on the non-voting formal co-optee in the co-option scheme pertaining to selection, term of office, allowances etc.

NOTE – a non-voting co-optee is still a formal arrangement and would require a constitutional change. See paragraph 3.5 above.

- 5.3. The difference between a formal voting co-optee and a formal non-voting co-optee (or informal attendee) is that the latter cannot vote or unduly influence committee decisions / recommendations.
- 5.4. As an informal attendee would be unpaid, there would be no budgetary implications.
- 5.5. Being an informal attendee may be seen by the holder as more attractive and less onerous, as there may be 'less pressure' associated with an informal position. Members would still need to consider how this person was chosen, ensure that that this was an effective use of their time (especially as they would be unpaid) and if selecting a Lewisham Homes resident only, satisfy themselves that it would not unfairly disadvantage tenants of other social landlords in the borough.

Expert witnesses

- 5.6. It may be more proportionate to invite social landlord tenant(s) and leaseholder(s) to

give evidence at specific meetings in relation to specific items, such as those that concern their landlord. This may be a better use of their time than a standing position on a committee.

Informal engagement

- 5.7. Some tenant(s) / leaseholder(s) may prefer to contribute to the work of the committee outside of the formal meeting structure in a more relaxed way and at a time and place convenient to themselves. The committee may wish to convene informal focus groups for this purpose or attend TRA meetings. The results of this engagement can be fed back at a formal meeting and contribute to the committee's consideration of specific items.

6. Financial implications

- 6.1. There are costs associated with having formal co-optees on scrutiny select committees. Depending on the method of selection, a cost may be incurred. For example, if an election is required. Formal co-optees are normally provided with an allowance. A budget would need to be identified to cover this.

7. Legal implications

- 7.1. There is currently constitutional provision for the mandatory statutory education co-optees, and co-optees to the Safer Stronger Communities Select Committee. There is a statutory requirement to make provision for co-optees to SSCSC but there is no requirement to appoint. At present, Lewisham does not appoint co-optees to SSCSC.
- 7.2. Sections 15 and 16 of the Local Government and Housing Act 1989, which relate to political balance, apply to the Housing Select Committee. There would need to be a decision on whether co-optees count towards political balance. The assumption is that they would not, as is the case for statutory co-optees to CYP Select Committee.

8. Equalities implications

- 8.1. Equality Act 2010 brought together all previous equality legislation in England, Scotland and Wales. The Act included a new public sector equality duty, replacing the separate duties relating to race, disability and gender equality. The duty came into force on 6 April 2011. It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.2. The Council must, in the exercise of its functions, have due regard to the need to:
 - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 8.3. There may be equalities implications arising from creating housing co-optees and these would need to be taken into consideration should a co-option scheme be established.

9. Climate change and environmental implications

- 9.1. There are no direct climate change or environmental implications arising from the implementation of the recommendation in this report.

10. Crime and disorder implications

- 10.1. There are no direct crime and disorder implications arising from the implementation of the recommendation in this report.

11. Health and wellbeing implications

- 11.1. There are no direct health and wellbeing implications arising from the implementation of the recommendation in this report.

12. Report author and contact

- 12.1. If you have any questions about this report please contact:

Charlotte Dale, Charlotte.Dale@lewisham.gov.uk

Emma Campbell Smith, Emma.CampbellSmith@lewisham.gov.uk

Appendix A: Approaches taken by other London Boroughs

Appendix B: Terms of reference for the Housing Select Committee

Appendix A: Approaches taken by other London Boroughs

A call for evidence was put out to the London Scrutiny Network. The following London Boroughs provided information on scrutiny co-optee positions that they had in place:

Borough	Type of co-optee	Can they vote?	Are they paid an allowance?	Who do they represent?	How are they selected?
Hackney	CYP co-optee (Aside from the statutory co-optees they have a number of other co-optees to reflect the balance of schools across Hackney)	No	Yes	The three additional co-optees represent the following: - one representative from Orthodox Jewish Community - One representative from North London Muslim Community Centre - One representative of Hackney Schools Governors Association - One representative of the Free Churches <i>(Informally 5 young people from Hackney's Youth Parliament and Care Council can attend if they wish to – this is informal and they are not named on papers, they are non-voting and receive no allowance)</i>	Named organisations are required to nominate a representative who sits on the CYP commission for the same period as the statutory parent governor representatives
Southwark	Formal co-optees: The Environment Commission has ability to co-opt experts.	No	No (but they can claim back the costs of travelling, subsistence and other expenses)	Environment Commission – themselves Housing commission - tenants and leaseholders (the borough's tenant and leasehold fora)	Informal networks for the Environment Commission The borough's tenant and leasehold fora nominate representatives to the Housing Commission (Southwark has an existing engagement structure with three different housing forums. Members of the forum and the scrutiny co-optees are chosen

	The Housing Commission has three co-optees representing tenants, leaseholders and TMOs respectively.		and dependant carer's allowance for costs they incur in arranging for a carer to look after dependants in order for them to attend a formal committee meeting.)		via a delegate / election process) The appointment of non-voting co-optees is subject to the approval of the chair and vice-chair of the overview and scrutiny committee Non-voting co-optees may be appointed for a full year or for the duration of a specific task or review. If a co-opted member does not attend a meeting of the committee on which they serve for a period of six consecutive months, without the approval of the council, they shall cease to be a member of the committee.
Tower Hamlets	2 Formal co-optees on each of the following bodies: OSC; Health; Housing & Regeneration	No	Yes	OSC – 2 resident representatives Health – Healthwatch plus one 'independent resident' Housing and Regeneration – one tenant and one leaseholder representing tenants and leaseholders from their social landlord - any landlord is okay as long as it is social housing.	Formal recruitment process run by Democratic Services. (There is a person specification and the position is advertised via Social Media. There is a shortlisting and interview process by a panel comprised of the Scrutiny Chair, a democratic services officer and a scrutiny and policy officer)
Croydon	Two Formal co-optee on Health & Social Care Sub-Committee plus an additional non-statutory formal co-optee	No	No	Health and Social Care Sub-Committee - the co-optees represent Healthwatch Croydon and the Residents Social Care User Panel. CYP - the appointee is a teacher	The HSC appointees are put forward by their respective organisations / groups. The teacher representative on CYP is nominated by the Union.

	appointed to our Children & Young People Sub-Committee			representative.	
Waltham Forest	A formal co-optee on their Growth Scrutiny Committee	No	No	They are young advisors representing the views of young people.	They ask the relevant youth advisor manager to recommend someone from their Youth network and then the Committee approves the appointment.
Redbridge	Two informal co-optees on Health scrutiny sub-committee	No	No (but expenses offered)	One position is designated to Healthwatch and the other is a lay member	Roles are publicised and expressions of interest shortlisted against the criteria in the agreed role description/ person specification. A referee is requested. Candidates are advised that interviews may be undertaken (not required to date). Shortlisted applicants are selected by the Committee via an exempt agenda item. Appointments are confirmed, subject to completion of a code of conduct form / training.
Hillingdon	Health (formal co-optee)	No	No	Themselves	Bespoke arrangement to allow a former councillor to continue to share their expertise (the councillor was the Chairman of the London Health Commission so it was considered it important to keep them linked in to the Council for a period of time after they vacated their seat)

Appendix B - Housing Select Committee Terms of Reference

The following roles are common to all select committees:

(a) General functions

- To review and scrutinise decisions made, and actions taken in relation to executive and non-executive functions
- To make reports and recommendations to the Council or the executive, arising out of such review and scrutiny in relation to any executive or non-executive function
- To make reports or recommendations to the Council and/or Executive in relation to matters affecting the area or its residents
- The right to require the attendance of members and officers to answer questions includes a right to require a member to attend to answer questions on up-and-coming decisions

(b) Policy development

- To assist the executive in matters of policy development by in depth analysis of strategic policy issues facing the Council for report and/or recommendation to the Executive or Council or committee as appropriate
- To conduct research, community and/or other consultation in the analysis of policy options available to the Council
- To liaise with other public organisations operating in the borough – both national, regional and local, to ensure that the interests of local people are enhanced by collaborative working in policy development wherever possible

(c) Scrutiny

- To scrutinise the decisions made by and the performance of the Executive and other committees and Council officers both in relation to individual decisions made and over time
- To scrutinise previous performance of the Council in relation to its policy objectives/performance targets and/or particular service areas
- To question members of the Executive or appropriate committees and executive directors personally about decisions
- To question members of the Executive or appropriate committees and executive directors in relation to previous performance whether generally in comparison with service plans and targets over time or in relation to particular initiatives which have been implemented
- To scrutinise the performance of other public bodies in the borough and to invite them to make reports to and/or address the select committee/Business Panel and local people about their activities and performance
- To question and gather evidence from any person outside the Council (with their consent)
- To make recommendations to the Executive or appropriate committee and/or Council arising from the outcome of the scrutiny process

(d) Community representation

- To promote and put into effect closer links between overview and scrutiny members and the local community
- To encourage and stimulate an enhanced community representative role for overview and scrutiny members including enhanced methods of consultation with local people
- To liaise with the Council's ward assemblies so that the local community might participate in the democratic process and where it considers it appropriate to seek the views of the ward assemblies on matters that affect or are likely to affect the local areas, including accepting items for the agenda of the appropriate select committee from ward assemblies.
- To keep the Council's local ward assemblies under review and to make recommendations to the Executive and/or Council as to how participation in the democratic process by local

people can be enhanced

- To receive petitions, depositions and representations from local people and other stakeholders about areas of concern within their overview and scrutiny remit, to refer them to the Executive, appropriate committee or officer for action, with a recommendation or report if the committee considers that necessary
- To consider any referral within their remit referred to it by a member under the Councillor Call for Action, and if they consider it appropriate to scrutinise decisions and/or actions taken in relation to that matter, and/or make recommendations/report to the Executive (for executive matters) or the Council (non-executive matters).

(e) Finance

- To exercise overall responsibility for finances made available to it for use in the performance of its overview and scrutiny function.

(f) Work programme

- As far as possible to draw up a draft annual work programme in each municipal year for consideration by the overview and scrutiny Business Panel. Once approved by the Business Panel, the relevant select committee will implement the programme during that municipal year. Nothing in this arrangement inhibits the right of every member of a select committee (or the Business Panel) to place an item on the agenda of that select committee (or Business Panel respectively) for discussion.
- The Council and the Executive will also be able to request that the overview and scrutiny select committee research and/or report on matters of concern and the select committee will consider whether the work can be carried out as requested. If it can be accommodated, the select committee will perform it. If the committee has reservations about performing the requested work, it will refer the matter to the Business Panel for decision.

The Housing Select Committee has specific responsibilities for the following:

- a) To fulfil all overview and scrutiny functions in relation to the discharge by the authority of its housing functions. This shall include the power to:
- b) review and scrutinise decisions made or other action taken in connection with the discharge of the Council of its housing function
- c) make reports or recommendations to the authority and/or Mayor and Cabinet with respect to the discharge of these functions
- d) make recommendations to the authority and/or Mayor and Cabinet proposals for housing policy
- e) to review initiatives put in place by the Council with a view to improving, increasing and enhancing housing in the borough, making recommendations and/or report thereon to the Council and/or Mayor and Cabinet
- f) To establish links with housing providers in the borough which are concerned with the provision of social housing