

REPORT TO: CHILDREN & YOUNG PEOPLE'S SERVICES COMMITTEE ON 18 AUGUST 2010

SUBJECT: VOTINGS RIGHTS OF NON ELECTED REPRESENTATIVES ON THE CHILDREN & YOUNG PEOPLE'S SERVICES COMMITTEE

BY: CHIEF LEGAL OFFICER

1. REASON FOR REPORT

- 1.1 The purpose of this Report is to clarify the voting rights of the non elected Members of the Children & Young People's Services Committee in accordance with a request made at the Committee meeting on 9 June 2010.
- 1.2 This report is submitted to Committee in terms of Section D of the Council's Administrative Scheme relating to the Children & Young People's Services Committee.

2. RECOMMENDATION

- 2.1 **It is recommended that the Committee note the current position with regard to the voting rights of non elected Members of the Children & Young People's Services Committee.**

3. BACKGROUND

- 3.1 The Children & Young People's Services Committee is unique among the Committees of the Council, both in terms of the breadth of its membership and, in particular, in the ability of non elected Members to have full voting status on the Committee. Both characteristics of Education Committees are of longstanding and can be traced back at least as far as the transfer of the management of public schools from the separate education authorities to local authorities in the 1920s.
- 3.2 The current statutory framework for the appointment of Education Committees is found in Section 124 of the Local Government (Scotland) Act 1973 as amended. This provision is significant in two respects. Firstly, it places an obligation on local authorities appointing an Education Committee to include certain church representatives amongst those appointed to the Committee. Secondly, it empowers local authorities to have a wider non Councillor membership of the Education Committee than would otherwise be permitted under the legislation. As regards the religious representatives, as they are given full membership of the Committee by statute, they have the right to speak and vote on all educational matters considered by the Committee. As regards the non religious representatives, as there is a discretion as to whether to appoint such representatives, the terms of any such appointment are entirely a matter for the discretion of the authority.
- 3.3 At a meeting of the Moray Council on 9 May 2007 (paragraph 33 of the Minute refers) the Educational and Social Services Committee was constituted.

Three religious representative members were appointed along with two teacher representative members. The religious representatives have full voting rights by statute. The two teacher representatives were accorded full voting rights by decision of the Moray Council. This is stated in the Minute to be "in accordance with previous practice". In addition a parent member and a pupil representative member were also appointed. These latter two appointments were however ex officio, and so neither the parent nor the pupil representative member have a right to vote on educational matters.

- 3.4 At a meeting of the Moray Council on 26 March 2008 (paragraph 28 of the Minute refers) the current Committee structure was agreed. In terms of that decision the remit for education passed from the Education and Social Services Committee to the Children & Young People's Services Committee. That apart, the membership of the Committee remained unchanged. Accordingly, at present the three religious representatives and two teacher representatives each have full rights to participate and vote at meetings of the Children & Young People's Services Committee in respect of items designated as educational on the agenda. Only the pupil representative has no right to vote in respect of these items.

4. SUMMARY OF IMPLICATIONS

(a) Single Outcome Agreement/ Service Improvement Plan

This Report is compliant with the educational aspects of the Single Outcome Agreement.

(b) Policy and Legal

The policy and legal considerations are detailed in the Report.

(c) Financial implications

There are no financial implications arising from this Report.

(d) Risk Implications

As the religious and teacher representatives on the Committee have full voting rights, there is the risk that their votes will be determinative of issues in a way in which elected Members may find unpalatable. Voting rights cannot be removed from the three religious representatives as these are guaranteed under statute. The issue of the voting rights of the teacher representatives was fully canvassed at the meeting of Full Council on 9 May 2007 when it was agreed that the teacher representatives were appointed with full voting rights.

(e) Staffing Implications

There are no staffing implications arising from this Report.

(f) Property

There are no property implications arising from this Report.

(g) Equalities

There are no equalities issues raised in this Report.

(h) Consultations

The Director of Educational Services has been consulted on the terms of this Report.

5. CONCLUSION

5.1 The Committee is asked to note the clarification provided with regard to the voting rights of non elected Members on the Children & Young People's Services Committee.

Author of Report: Rhona Gunn, Principal Solicitor

Background Papers:

Ref: RG/CS