



DERBY CITY COUNCIL

CHILDREN AND YOUNG PEOPLE'S COMMISSION 25 JULY 2006

Report of the Corporate Director of Corporate and Adult Social Services

Voting Rights of the Statutory Added Members

RECOMMENDATIONS

1. To determine a response to Department for Communities and Local Government, DCLG, advice on the role of the statutory added members.

SUPPORTING INFORMATION

- 2.1 In the Council constitution overview and scrutiny rules OS6 and 7 give effect to statutory requirements in Section 21 of, and Schedule 1 to, the Local Government Act 2000. The rules read:

Education representatives

OS6 The overview and scrutiny commission dealing with education matters shall include in its membership the following voting representatives:

- a. one Church of England diocese representative;
- b. one Roman Catholic diocese representative;
- c. two parent governor representatives; and
- d. one representative of other faiths or denominations.

OS7 A relevant overview and scrutiny commission in this paragraph is an overview and scrutiny commission of a local education authority, where the commission's functions relate wholly or in part to any education functions which are the responsibility of the authority's Executive. If the overview and scrutiny commission deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

The underlined words exactly replicate wording in 'Modular Constitutions for English Local Authorities' produced by the (then) Office of the Deputy Prime Minister in 2000.

2.2 The integration of services for children and young people required by the Children Act 2004 saw the creation of the Children and Young People Commission at the recent Annual Meeting, together with a wider re-configuration of Derby's scrutiny functions. At the request of the Scrutiny Management Commission, the Council wrote to the Department for Communities and Local Government, DCLG, to seek clarification of the position of the statutory co-optees on the Commission dealing with education matters. The response was that:

- There are no current plans to review the current arrangements for co-optees.
- A split agenda, with these representatives as voting members for that part of the meeting considering LEA functions, and as non-voting members for that which deals with other functions, would seem to be the most sensible solution.
- The DCLG would be interested to hear though of any significant practical difficulties that the above arrangement is found to cause in practice.

2.3 To respond to this advice there are three broad options open to the Commission:

Option 1. To follow the DCLG advice and divide the agenda into Part A, LEA related functions and Part B, social services and miscellaneous functions.

Option 2. To continue to arrange agenda as at present but should a vote take place the Constitutional Services Officer advise the chair whether the issue was LEA-related and thus whether the five added members may vote.

Option 3. To address the problem by asking Council to give voting rights to the added members in respect of "non-LEA" functions.

The following paragraphs explain the three options.

2.4 Option 1. To follow the DCLG advice and divide the agenda into Part A, LEA related functions and Part B, social services and miscellaneous functions.

Ahead of the publication of the agenda and documentation for each Commission meeting the items would, with advice from Constitutional Services, be divided into LEA-linked and non-LEA items. Business planning issues like the Forward Plan, Retro-scrutiny and Performance Eye would fall in the LEA-linked category as each heading offers the *potential* to select LEA items.

Advantages	Disadvantages
Most closely follows DCLG advice	May be difficulties adjudicating if there is an LEA element eg with the lives of Looked After Children....
Offers a transparent method of working the added members' dual status. The more seamless the new Department becomes, the more the blurring may be expected to develop
For most agenda items it should be easy to allocate to Part A or Part B	Formalising the distinction on scrutiny agendas may have a retarding effect on the development of a unified identity for the new function.
	Would limit the varying of agenda running order, as present, to bring up the agenda issues of keen public interest, or where a Cabinet member can only be present for part of a meeting, or avoiding an officer "waiting" for an item at the end of the agenda.

Option 2. To continue to arrange agenda as at present but should a vote take place the Constitutional Services Officer advise the chair whether the issue was LEA-related and thus whether the five added members may vote.

This requires no change to current practice.

Advantages	Disadvantages
Allows the agenda to be constructed in the most sensible order.	Retains the 'split' status of the added members.
Reflects the reality that few votes take place.	

Option 3. To address the problem by asking Council to give voting rights to the added members in respect of “non-LEA” functions.

This would require Council ratification to institute a scheme under the Local Government Act 2003. In essence it would award a vote to the 5 added members in respect of all the listed non-LEA items within the Commission's portfolio.

Advantages	Disadvantages
Avoids the need to categorise LEA and non-LEA items either on agenda (as at option 1) or when a vote takes place (option 2).	Some members disapprove of voting rights for non-councillors because it can be perceived as responsibility without accountability, so may object to any expansion beyond the legal requirement.
Gives parity of status to the 5 added members.	Although it could be considered a 'special case' to deal with the C&YP Commission issue, it could also be viewed as creating a precedent.
Helps promote a unified identity for the Children & Young People function.	

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Background papers: None
List of appendices: Appendix 1 – Implications

IMPLICATIONS

Financial

1. None.

Legal

- 2.1 The Council Constitution closely follows the DCLG guidance which gives effect to Section 21 of, and Schedule 1 to, the Local Government Act 2000. In turn that replicates established arrangements for the voting representation on Education Committees of Church of England and Roman Catholic nominees, as both the churches operate schools, and school governors.
- 2.2 The Local Government Act 2003 varied the 2000 Act to enable a Council, through a “voting rights scheme”, to give a vote to co-optees. This would require approval by full Council and notification to the Secretary of State.

Personnel

- 3 None directly arising.

Equalities impact

- 4 None directly arising.

Corporate Priorities

- 5 This is an organisational issue.