

# MINUTES

# B

**Education and Families Committee**  
**Council Chamber, Town Hall, Lerwick**  
**Thursday 25 August 2011 at 10.00am**

**Present:**

E L Fullerton	A J Cluness
I J Hawkins	W H Manson
C H J Miller	J G Simpson
J W G Wills	

**Also:**

J H Henry

**Apologies:**

L Angus	F B Grains
R C Nickerson	
W H Manson (for lateness)	

**In Attendance:**

H Budge, Director of Children's Services  
A Edwards, Quality Improvement Manager  
A Williamson, Chief Social Work Officer  
M Summers, Youth Development Worker  
J Riise, Head of Legal and Administration  
A Cogle, Service Manager – Administration  
P Peterson, Communications Project Manager  
J Thomason, Management Accountant  
L Geddes, Committee Officer

**Also:**

C Hislop, Audit Scotland

**Chairperson**

Mrs E L Fullerton, Chair of the Committee, presided.

**Circular**

The circular calling the meeting was held as read.

**Declarations of Interest**

In response to a query relating to Agenda Item 5 "Religious Representatives – Process for Appointments" regarding whether members of the Church of Scotland should declare an interest, the Chair advised that she was a member of the Church of Scotland but had taken legal advice and did not require to declare this.

The Head of Legal and Administration confirmed that under the terms of the new Code of Conduct, there was no direct or indirect conflict of interest that would apply in these circumstances.

The minutes of the meeting held on 15 June 2011 were confirmed on the motion of Mr Cluness, seconded by Mrs Miller.

05/11

**Participatory Democracy for Young People**

A report by the Director of Children's Services (Report No: CS-11-F) set out the ways in which young people will be encouraged to be more involved in all levels of decision-making in Shetland, following the Community Planning Summit in Autumn 2010.

In commenting that they felt this was an excellent step forward for democracy in Shetland, the Committee approved the recommendations in the report on the motion of Mrs Miller, seconded by Dr Wills.

**Decision:**

The Committee **RESOLVED** to:

1. approve the proposal to directly elect Youth Voice members
2. approve Councillor participation in the programme for participatory democracy for young people

06/11

**A Brighter Future for all Children and Young People in Shetland: Shetland's Integrated Children and Young People's Services Plan 2011-2014**

A report by the Director of Children's Services (Report No: CS-12-F) sought approval of the three year Children and Young People's Services Plan 2011-2014.

The Committee noted that any areas identified for taking forward by the Children and Young People's Forum were brought to the Children and Young People's Strategic Planning Group, and from there on to the Education and Families Committee. Training needs were identified on an ongoing basis, and there were budgets to support this. It was also noted that young people in Shetland had identified poverty as a factor that excluded them from participation and interaction with their peers.

On the motion of Mrs Miller, seconded by Mr Cluness, the Committee approved the recommendation in the report.

**Decision:**

The Committee **RESOLVED** to:

1. agree that the priorities listed in the Plan are appropriate to the delivery of the Integrated Children and Young People's Services Plan
2. agree the Integrated Children and Young People's Services Plan

07/11

**Shetland Child Protection Committee: Annual Report and Business Plan**

A report by the Director of Children's Services (Report No: CS-13-F2) presented the details of the work of the Child Protection Committee for the period April 2010 to March 2011, as set out in its Annual Report for 2010-11.

In response to a query relating to training of schools staff, the Director of Children's Services advised that managers and teachers were all trained regarding their child

protection responsibilities. It was intended that all other staff in schools should receive training, and this would take some time to achieve. Head Teachers currently gave guidance to all staff on their responsibilities in relation to child protection. Members also noted that whilst there had been an increase in the numbers of children referred to social work for consideration of child protection measures, the number of children whose names were placed on the register had decreased. It was considered that the increase in referrals was as a result of people being more knowledgeable, aware and willing to report matters to social work.

**Decision:**

The Committee:

1. reviewed the terms of the Annual Report and Business Plan, as part of its scrutiny role under the approved Planning and Performance Management Framework (PPMF)

08/11

**Children's Hearings Scotland: Proposals for the Establishment of Area Support Teams**

A report by the Head of Legal and Administration (Report No: LA-46-11-F) advised Members of current reforms taking place within the Children's Hearings System, and invited Members to respond to a consultation paper from the National Convener, Children's Hearings Scotland on proposals for the establishment of Area Support Teams (ASTs) which are intended to replace the existing Children's Panel Advisory Committees (CPACs) across Scotland. The report also requested that delegated authority be granted to the Head of Legal and Administration, in consultation with the Shetland CPAC and Children's Panel, as appropriate, to negotiate with the National Convener regarding the establishment of a Shetland AST.

In response to a query, the Head of Legal and Administration confirmed that there was a requirement for one local authority nomination on the AST. The Council could seek further nominations but this would have to be agreed with the National Convener, and a report seeking nominations from the Council would be presented when appropriate.

**Decision:**

The Committee **RESOLVED** to:

1. instruct the Head of Legal and Administration to respond to the consultation exercise
2. grant delegated authority to the Head of Legal and Administration, in consultation with the Shetland CPAC and Children's Panel, as appropriate, to negotiate with the National Convener regarding the establishment of a Shetland AST

*(Mr W H Manson attended the meeting during the following item)*

09/11

**Religious Representatives – Process for Appointments**

A report by the Head of Legal and Administration (Report No: LA-49-11-F) sought approval from the Council for the method of appointment of religious

representatives to the Education and Families Committee, as required by legislation.

In response to a query regarding how the Scots Law requirement for religious representatives sat in relation to UK legislation that brought the European Convention of Human Rights (ECHR) and the outlawing religious discrimination into effect, the Head of Legal and Administration advised that the Human Rights Act indicated that it was unlawful for any public authority to act in a way that was incompatible with the ECHR. However this did not apply if the authority could not have acted differently under primary legislation which, in this case, was the Local Government (Scotland) Act 1973, as amended in 1994. The 1973 Act indicated that local authorities must have three religious representatives. When local government was reorganised in 1994, the Local Government Act, enacted in that year, allowed local authorities no longer to have education committees and teacher representatives. However the appointment of religious representatives was still required in circumstances where a committee was established to discharge the functions of the education authority, as was the case under the remit of this Committee. Therefore primary legislation required the Council to make these appointments, and there was no question of this amounting to a breach of ECHR.

A Member expressed concern that non-elected representatives would be included in the membership of the Education and Families Committee and have voting rights. It was questioned whether it would be acceptable for the Council to instead re-establish its Education Forum, or form a sub-committee of the Education and Families Committee, whereby Church representatives could be represented. Negotiation could take place with religious representatives to ensure this alternative would be acceptable to them.

The Head of Legal and Administration advised that when the Council's Education Forum had been established, it had been necessary to seek agreement from religious groups that the establishment of the Forum would meet their requirements. Because education matters were delegated to the Education and Families Committee, it was not possible to escape the requirement to make these appointments. Deferral of such a decision was also no longer tenable, and there was no scope other than to accept the existing nomination from the Church of Scotland and seek further religious representatives.

It was questioned how the Council would ensure it met the legislative requirements to select representatives from outwith the Church of Scotland.

The Head of Legal and Administration advised that consultation would take place with the Shetland Churches Council Trust and the Shetland Interfaith Group regarding the nomination of representatives. He anticipated that this may take some time and therefore it may not be possible to report back to the next meeting of the Council as stated.

Mr Cluness moved that the Committee approved the recommendations in the report, and Mrs Miller seconded.

Dr Wills moved, as an amendment, that the Committee do not accept the Church of Scotland nomination and that authority be delegated to the Head of Legal and Administration, in consultation with the Chair, to continue consultation with the Shetland Churches Council Trust and the Shetland Interfaith Group to see if it is

possible to come to an arrangement to satisfy their legitimate concerns and satisfy European law.

He went on to say that he was of the view that the recommendations were clearly religious discrimination because they gave privilege to the Church of Scotland, and this was incompatible with European law and United Nations conventions.

The Chair pointed out that nationally it was the case that the Church of Scotland was entitled to nominate one representative. She sought legal advice from the Head of Legal and Administration as to whether the amendment was competent.

The Head of Legal and Administration advised that the Council had put in place constitutional arrangements. Because of its remit, membership of the Committee was required to include religious representatives, and this was reflected in the Council's constitutional documents. Therefore the Council had an obligation to make these appointments. A deferral would not be compliant with the law, and it would be for the Chair to make a ruling on the competence of the amendment.

The Chair ruled that the amendment was incompetent as the Committee had a duty to uphold and act in accordance with the law.

**Decision:**

The Committee **RECOMMENDED** that the Council resolve to:

1. appoint the nominated Church of Scotland representative to the Education and Families Committee with immediate effect
2. delegate authority to the Head of Legal and Administration to continue consultation with the Shetland Churches Council Trust and the Shetland Interfaith Group, and report back to the next meeting of the Council

*(Dr Wills left the meeting)*

**Mrs Fullerton moved that in order to avoid the disclosure of exempt information, the Committee resolve to exclude the public in terms of the relevant legislation during consideration of the following item of business. Mr Simpson seconded.**

10/11

**Creation of Adult Protection/Child Protection Combined Posts**

A report by the Chief Social Work Officer reflected a piece of work looking at reconfiguring a number of posts associated with Adult Protection and Child Protection to create a small team, which would bring together the functions of protection associated with the Child Protection and Adult Protection Committees and make for a more integrated function across the two areas.

The Chief Social Work Officer responded to queries from Members.

On the motion of Mr Simpson, seconded by Mrs Miller, the Committee approved the recommendations in the report.

**Decision:**

The Committee **RECOMMENDED** that the Executive Committee resolve to:

1. reconfigure a number of posts referred to in paragraph 2.2 of the report
2. delegate authority to Director of Children Services to re-negotiate the change in funding arrangements

The meeting concluded at 11.05am

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Chair