

CO-OPTION OF REPRESENTATIVES

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1. Purpose

- 1.1 To consider the representation and role for co-opted representatives under new democratic structures, together with any interim arrangements which may be necessary.

2. Summary

- 2.1 The Council currently co-opts a number of persons to its Committees and Sub-Committees, but now needs to consider what role the existing co-optees can undertake under new democratic structures.
- 2.2 The report also considers the position of statutory co-optees and elected parent governor representatives to the Education Committee, in advance of new legislation, who currently have voting rights on education matters.
- 2.3 The Democratic Structures Working Group has already considered this report and, subject to consultation with current co-optees, supported the recommendations below.
- 2.4 All current co-optees have had the opportunity to comment on the report.

3. Recommendations

- 3.1 That, with the exception of statutory co-optees, formally co-opted representatives to Committees and Sub-Committees be dispensed with in favour of inviting persons with relevant expertise to input into the scrutiny process and to be consulted, as appropriate, on decisions/recommendations to be made by an Executive Member, with Standing Orders, Protocols, etc. being prepared as necessary to permit this.
- 3.2 That, where possible, with the exception of statutory co-optees, current co-optees be included on an appropriate Consultative Assembly.
- 3.3 That the statutory co-optees and voting parent governor representatives be retained (as legislation requires co-opted church representatives and elected parent governors with voting rights to participate in 'education' decisions) on the scrutiny body with responsibility for education issues.

4. **Background**

- 4.1 A local authority has a general power to co-opt persons from outside its membership to any committee, other than a committee for regulating or controlling finance.
- 4.2 The power to co-opt rests with the Council, although it is usual for this to happen on the recommendation of the subordinate body.
- 4.3 The Council also has a statutory obligation to appoint representatives of the Church of England and the Roman Catholic Church to the Committee dealing with education or the Committee that scrutinises the decisions of that Committee.
- 4.4 With the exception of the Church of England and Roman Catholic Church representatives appointed to the Education Committee, co-optees are in a non-voting capacity, although there are limits on the church's representation to vote on certain budgetary issues, mainly concerning the determination of the overall education budget.
- 4.5 The Council has currently co-opted persons to the following Committees and Sub-Committees:
- (a) Children's and Youth Committee
 - (b) Education Committee
 - (c) Grant Aid Committee
 - (d) Housing Committee
 - (e) Transport Committee
 - (f) Environment Projects Sub-Committee
- 4.6 As from the new Council year (1 June 2000) the Council will also be required to include elected parent governor representatives on the Education Committee, who will have similar powers as church representatives.
- 4.7 Department for Education and Employment guidance for Councils adopting new democratic structures in advance of the legislation is as follows:
- “(a) Where an authority modernises its structures in advance of the proposed local government legislation, the local authority must provide places to diocesan representatives on all appropriate committee(s).
 - (b) Where a single body or executive exists (in the form of a mayor or cabinet), and where it takes all the main decisions relating to education, then the authority should have a number of ‘overview and scrutiny’ committees whose role will be to scrutinise and put proposals to the executive. It is on these committees dealing with education that we

would expect the diocesan representatives to sit. If more than one committee exists to oversee and scrutinise the executive's education decisions then diocesan representatives can be expected to be offered a place on each one.

- (c) Where education forms only one part of a committee's remit, diocesan representatives must still be members of this committee and should vote on education matters. The representatives would be able to speak on all topics covered by the committee. Representatives would, however, be advised to speak only on education topics and topics which have a clear link to education."

4.8 The position in relation to parent governor representatives is set out in a letter from the DfEE, dated 15 July 1999, which states:

'In a modernised structures, the representatives will have a place on any committee appointed to oversee and scrutinise the Executive on education matters. The representatives' voting rights relate to pupils and schools maintained by the authority, but not to determination of the authority's overall capital and revenue education budgets'.

4.9 This issue was considered by the Democratic Structures Working Group on 8 February 2000 (Minute DS47/00 refers), when the recommendations, as set out at paragraphs 3.1 and 3.3 of this report, were agreed in principle, subject to consultation with existing co-optees and conformation by this Committee. Further consideration was given to this issue by the Working Group on 2 March 2000 (Minute DS57/00 refers), when it was suggested that in addition to using the current co-optees as 'expert witnesses' they should also become part of the Consultative Assemblies supporting the work of the Council.

4.10 All of the current co-optees have received a copy of the report considered by the Democratic Structures Working Group for their comments, which are addressed in the Issues and Choices section below.

5. **Issues and Choices**

5.1 The main issues facing the Council are:

- (a) whether, with the exception of co-optees required by statute, there is a continuing role for co-opted members and if so on what bodies should the co-opted representatives serve and in what capacity; and
- (b) whether, as an interim measure, the Council needs to make arrangements for statutory co-optees currently co-opted to the Education Committee and elected parent governor representatives to be included as part of the body responsible for decisions concerning education or whether it would prefer that they sit on the committee with responsibility for scrutinising that body.

5.2 The main choices relating to paragraph 5.1(a) above appear to be:

- (a) to co-opt persons to the scrutiny body responsible for the particular service;
- (b) to invite co-opted persons to only attend scrutiny meetings when subjects which Members and officers identify as being appropriate to the person's particular expertise arise;
- (c) to treat current co-optees as expert witnesses at any scrutiny body hearings; or
- (d) to dispense with the idea of formally co-opted representatives and invited persons with relevant expertise to input into meetings and decisions as the subject demands, similar to the role of expert witnesses at Parliamentary Select Committees. This could include both invitations to meetings of appropriate scrutiny bodies as well as a requirement for Executive Members to consult appropriate groups before making a major decision/recommendation.

5.3 The major drawback with 5.2(a) is that there may be some difficulty where persons are co-opted for a particular expertise and scrutiny bodies are cross cutting. Equally with options 5.2(b) to (d) much is left to the discretion of Members and officers to identify who are the appropriate persons to be invited to a particular body.

5.4 However, the particular advantage of option 5.2(d) appears to be that the pool of expertise is not limited to the existing co-opted representatives. Standing Orders/protocols could be framed in such a way that the scrutiny bodies have to consult designated expert witnesses for some matters - so enabling the Council to retain the expertise of existing co-opted members and supplement it with the expertise of others.

5.5 The guidance from the Department for Education and Employment makes mention of including statutory co-optees on the body making decisions on education. However, the Council is not required to do this if they are to be involved on the scrutiny committee for education decisions. Accordingly, with regard to paragraph 5.1(b) above, the main choices appear to be:

- (a) involving statutory co-optees and elected parent governors when 'education' decisions are ratified by the Business Management Group; or
- (b) retaining the Education Committee in some form; or
- (c) involving the statutory co-optees and elected parent governors on the committee with responsibility for scrutinising the decisions of the Business Management Group relating to education issues; or
- (d) a combination of (a) and (c) above.

5.6 During the "interim" period, whatever body deals with education decisions will be required to conform to the rules relating to proportionality and if any one

party has a majority on the Council, that party will also be entitled to a majority on the 'Education Committee' taking account of the voting co-optees and parent governor representatives.

5.7 All of the Council's current co-optees have been consulted on the recommendations, as set out at paragraphs 3.1 and 3.2 of this report, as supported by the Democratic Structures Working Group. The responses can be summarised as follows:

(a) Mr M Lewis (The Ark Charity) - Co-opted to the Housing Committee

Generally agrees with the approach agreed by the Working Group, but suggests that the 'expertise' offered should be 'available on all occasions when housing matters are debated'.

(b) Mr I Richardson (Milton Keynes Parks Trust) - Co-opted to Environment Projects Sub-Committee

Suggests that the Environment Projects Sub-Committee, in its original role of suggesting appropriate schemes to the Environmental Body for grant aid, should not be lost in the restructuring. Seen as a key element in the process which is unlikely to be replaced by executive action in a form acceptable to the major organisation on the Environmental Body.

Therefore suggests the retention of the Sub-Committee in its original form to make recommendations on environmental grants.

(c) Thames Valley Police - Co-opted to Transport Committee

Thames Valley Police has reiterated its willingness to continue to provide a specially trained police representative to answer questions on law, practice and Police policy.

Concern has also been expressed orally, that under the new structures consultation would tend to be selective, when at present the police have an opportunity to input into all items considered by the Transport Committee.

6. **Implications**

6.1 Equalities

The co-option of representatives with specific experience or expertise broadens the views available to the Council to input into its decision making processes and so allows the views of different sectors of society to be considered.

6.2 Environmental

A wider range of expert views than that available immediately to the Council, can only enhance the Council's awareness of environmental issues and the likely effects decisions will have on the environment.

6.3 Financial

Co-opted representatives to the Council are entitled to receive travelling expenses and financial loss allowance. However, expenditure at present is negligible.

6.4 Legal

The Council's general power to co-opt representatives is as a result of Section 102(3) of provisions of the Local Government Act 1972, which has been modified by Section 13 of the Local Government and Housing Act 1989.

The requirement to co-opt church representatives to the Education Committee is as a result of Section 499 of the Education Act 1996 and potential arrangements for new democratic structures are set out in DfEE Circular 19/99.

Political balance on decision making Committees is required by virtue of the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990.

6.5 Staff and Accommodation

None.

7. **Conclusions**

- 7.1 The expertise and knowledge provided by current co-opted representatives is important for the efficient and informed decision making by the Council and it is therefore important this is retained as part of new democratic structures.

Background Papers:

DfEE Circular 19/99

Letter from DfEE to Strategic Director Learning and Development, dated 15 July 1999

Letter from Mr M Lewis of the Ark Charity, dated 28 February 2000

Letter from Mr I Richardson of the Milton Keynes Parks Trust, dated 9 March 2000

Letter from Acting Inspector P Smith of the Thames Valley Police, dated 13 March 2000