



**Report of the Assistant Chief Executive (Corporate Governance)**

**Executive Board**

**Date: 17 October 2007**

**Subject: Arrangements following the abolition of the Leeds School Organisation Committee**

<p><b>Electoral Wards Affected:</b> ALL</p> <p><input type="checkbox"/> Ward Members consulted (referred to in report)</p>	<p><b>Specific Implications For:</b></p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
Eligible for Call In <input checked="" type="checkbox"/>	Not Eligible for Call In (Details contained in the report) <input type="checkbox"/>

**1.0 Purpose of this report**

1.1 To inform members about the abolition of the Leeds School Organisation Committee (SOC) on 25 May 2007 and to agree how the Council should decide on proposals formerly dealt with by the SOC.

**2.0 Background information**

2.1 Functions of The SOC

2.1.1 The SOC was an independent statutory body established by The School Standards and Framework Act 1998.

2.1.2 The SOC took decisions on statutory proposals where objections had been received from any person following the publication of statutory notices namely notices:-

closing schools  
opening new schools  
making prescribed alterations to schools

2.1.3 The SOC comprised 6 groups each having a single vote in relation to each proposal under consideration. These were 5 mandatory groups, the Schools Group (Governors representing the full range of schools in Leeds),

Roman Catholic Diocese, Church of England Diocese, Elected members of the Council, Learning and Skills Council and an additional optional Community Group which in Leeds was the Further and Higher Education Group.

2.1.4 The SOC operated in accordance with Standing Orders drawn from regulations made under the Schools Standards and Framework Act and guidance issued by the Department for Education and Skills (DfES). The committee was serviced by a committee clerk who dealt with administration and a Secretary (solicitor) whose role was to check the legal validity of information passed to the SOC and who attended meetings to advise the committee on proposals.

2.2 Section 29 of the Education and Inspections Act 2006 abolished SOC's from 25 May 2007. Responsibility for decision making in relation to school organisation proposals now passes to Local Authorities (LA's) and to the Schools Adjudicator as set out in the attached table at Appendix A.

### **3.0 Main issues**

3.1 Consideration needs to be given to how proposals will be dealt with post abolition of the SOC. To assist with this an explanation of the process pre 25 May 2007 is set out below.

3.2 Education Leeds prepared proposals on behalf of the Council. This will continue in future under the Agreement setting out the arrangements between Education Leeds and the Council.

3.3 The Executive Board made certain decisions on school organisation as follows:-

3.3.1 Giving approval to go out to consultation on school organisation proposals.

3.3.2 On completion of consultation approving the publication of statutory school organisation proposals

3.3.3 Once the public representation period referred to in the notice had ended, agreeing that the proposal should go forward to the SOC for consideration.

3.3.4 Agreeing to responses on the representations made to go forward to the SOC.

3.3.5 Taking decisions on school organisation proposals which did not have to go to the SOC, i.e. those proposals where there were no objections and where no conditions needed to be attached to any proposal, for example obtaining planning consent.

3.4 It is proposed that the current arrangement continues as set out in 3.3.1, 3.3.2 and 3.3.5. The main issue for consideration is how the Authority should in future deal with proposals to which there are objections.

## **4.0 The SOC Process**

- 4.1 For those proposals that did go forward to the SOC, the process was:-
- 4.1.1 The published Statutory Notice was sent to the Secretary of the SOC who, upon being satisfied that it was legally valid, sent a copy to the DfES.
  - 4.1.2 The proposer then compiled information in relation to the proposals as prescribed by regulations and sent this to the SOC.
  - 4.1.3 Once the representation period set out in the Statutory Notice ended, the representations and comments on these, together with any other relevant information was sent by the proposer to the SOC.
  - 4.1.4 The Secretary then prepared a report setting out guidance for the SOC to take into account and all relevant papers were sent out to SOC members.
  - 4.1.5 In advance of the SOC meeting, an advert was placed in the YEP publishing details of the meeting (this was not compulsory but Leeds chose to advertise in this way).
  - 4.1.6 The practice at SOC meetings, although again not compulsory, was for the proposer to be given 5 minutes and the objectors 5 minutes in total to speak. Committee members would then ask questions if necessary and once satisfied they had all relevant information would break into their groups to vote. Each group would have one vote each. If the voting was unanimous the decision would be carried. If not the proposal had to be sent to the School's Adjudicator for determination.
  - 4.1.7 The Secretary would write with the decision to all relevant people including the schools, objectors and the DfES.
  - 4.1.8 There would usually be a chair's brief in advance of SOC meetings.
  - 4.1.9 The SOC would be updated on a regular basis with any relevant information to assist them in their decision making, for example information about demographics in Leeds.
  - 4.1.10 On average a proposal with a few objections would take approximately 1 to 2 hours to deal with. More complex linked proposals would take longer.

## **5.0 The Way Forward**

- 5.1 Advice has been sought from the newly named Department for Children, Schools and Families (DCSF) about the appropriate mechanism the Local Authority should use to make decisions previously taken by the SOC. The DCSF have made it clear that they will not prescribe the process by which the Local Authority will carry out their decision making function, this is a matter for each Local Authority to determine.

However they have issued guidance for decision makers setting out factors to be considered before decisions are made and have made it clear that the requirement to have regard to statutory guidance in reaching any decision will apply to whoever takes that decision.

5.2 The options available for Leeds City Council in the future in dealing with school organisation proposals are:-

5.2.1 For the Executive Board to deal with the proposals.

5.2.2 Part 4 of the Executive Procedure rules paras 1.1 and 1.2 of the Constitution provides that the Leader may provide for any function to be discharged by:-

- a. A Committee of the Executive.
- b. An Officer.
- c. Joint arrangements.
- d. Another Local Authority.

It is the view of the Assistant Chief Executive (Corporate Governance) that options c and d would not be appropriate.

5.2.3 In relation to option b. under the Officer Delegation Scheme (Executive Functions), with the exception of those matters where an appropriate Executive member has directed that the delegated authority should not be exercised and that the matter should be referred to the Executive Board for consideration, the Director of Children's Services has delegated authority to discharge any function of the Executive in relation to the authority's role as local education authority.

5.2.4 Consideration has been given as to whether Area Committees or the Scrutiny Board should be involved in the decision making process. Under the Constitution certain executive functions are delegated to Area Committees; these do not include school organisation matters. Once a Statutory Notice setting out a school organisation proposal is published the period during which the public can make representations is usually 6 weeks and a decision is usually then required within 2 months from the closing date of the receipt of representations. When proposals go out to consultation or when a school organisation notice is published, anyone can make representations including members of Area Committees and Scrutiny Boards.

5.2.5 The Scrutiny Board has the ability to deal with call in of decisions including when proposals go out to consultation and whether or not to publish notices so there would be ample opportunity for the Scrutiny Board to become involved if the need arises without the need for them to automatically consider all proposals and report to the Executive Board on these.

- 5.2.6 A committee of the Executive could make decisions on school organisation proposals, but as such a committee would be made up of Executive Board members this would involve arranging additional meetings for some Executive Board members which may be unnecessary if the Board is able to deal with these matters during their regular meetings.
- 5.2.7 The advantage of the SOC was that the membership was representative of the education community in the area and members were able to bring their knowledge and experience to the decision making process. To assist in the decision making process on school organisation proposals an Advisory Board of educational representatives could be set up, operating in a similar way to the way the SOC operated.
- 5.2.8 The purpose of such a Board would be to consider proposals and make recommendations to the Authority. The Executive Board or an Officer to whom a matter is delegated would then make a decision on the proposals. If the Advisory Board is unable to make a recommendation, it would still fall to the Authority to make a decision.
- 5.2.9 With or without a recommendation from the Advisory Board, the Executive Board or officer to whom the function had been delegated would still have to:-
- Receive the relevant paperwork so that they have all the information necessary for them to make a decision as even with the benefit of the Advisory Board's recommendation the decision is one for the Authority to make.
  - Consider if they wish to hear verbal representations before making their decision. If the Advisory Board has considered verbal representations the Authority would take this into account.
  - Give reasons for their decision.
- 5.2.10 If an Advisory Board is set up the suggestion is that it is made up of representatives from the educational community, namely five groups:-
1. R. C. Diocese
  2. C of E Diocese
  3. Schools
  4. Learning and Skills Council
  5. Further and Higher Education
- 5.2.11 The suggestion is that each group would have one vote on a proposal. A majority vote would result in a recommendation to the Authority for or against a proposal, with the Board providing reasons for their recommendation.

Suggested draft standing orders for an Advisory Board are set out in Appendix B. The differences between these suggested standing orders and the previous SOC standing orders are:-

- (1) a reduction in the number of and people in groups
- (2) a majority vote to carry a recommendation rather than a unanimous vote
- (3) The inclusion of a parent governor in the schools group in response to the new local authority duty to consider parental representations about provision in schools (see 6.1 below)

## **6.0 Matters for consideration:-**

6.1 Local Authorities are expected to ensure a smooth transition for the new arrangements which are to be underpinned by the new Local Authority duties:-

to secure diversity in provision of schools  
increase opportunities for parental choice  
respond to parental representations about provision in schools

6.2 Rights of appeal will be available in certain cases against the decision of the Local authority to the Schools Adjudicator.

## **7.0 Implications for council policy and governance**

School organisation decisions are not exempt from call in by Scrutiny whether taken by the Executive Board or a committee of the Executive or by an officer. The authority, as with other decisions, has power to exempt school organisation decisions from call in under the Scrutiny Board Procedure Rules para 22.1 when delay in implementing a decision would seriously prejudice the Authority's or public interest. The proposer could clarify if this is an issue when submitting proposals for consideration.

## **8.0 Legal and resource implications**

8.1 Officer support will be required to support the new arrangements i.e. a clerk and legal advice as required.

8.2 If the Authority decide to set up an Advisory Board the cost of this and member's expenses will need to be budgeted for by the Authority.

## **9.0 Options**

9.1 The Executive Board will continue to deal, as at present, with:-

- 9.1.1. Decisions on whether to go out to consultation on school organisation proposals.
- 9.1.2 Once consultation has taken place , deciding whether to publish statutory proposals
- 9.1.3. Deciding school organisation proposals in relation to those matters set out in Appendix A where there are no objections

9.2. Where there are objections, the realistic options are:

9.2.1.

- a) Executive Board to make the decision or
- b) Executive Board to make the decision following recommendation of an Advisory Board or
- c) An officer to whom the authority has been delegated to make the decision or
- d) An officer to whom authority has been delegated to make the decision following recommendation of an Advisory Board

## 10 Recommendations

Members are asked to approve

- 10.1 That the Executive Board makes decisions on all statutory proposals where they have the responsibility to do so as set out in appendix A.
- 10.2 Where there are objections to proposals, that these are first referred to an Advisory Board for a recommendation to be made to the Executive Board
- 10.3 That an Advisory Board be set up to advise the Executive Board on proposals.
- 10.4 That the draft Standing Orders at Appendix B be adopted as the Standing Orders for the Advisory Board.

