

CHILDREN AND YOUNG PEOPLE OVERVIEW AND SCRUTINY COMMITTEE

8 DECEMBER 2015

COMMITTEE MEMBERSHIP: ADDED AND CO-OPTED MEMBERS

Report from: Barbara Peacock, Director of Children and Adult Services

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Summary

This report advises the Committee of current issues relating to the seats on the Committee for voting and non-voting co-opted members and seeks agreement to some changes to current arrangements.

1. Budget and Policy Framework

- 1.1 Chapter 4, part 5 of Medway Council's constitution sets out provision for the Council to appoint non-voting co-opted members to any of its Overview and Scrutiny Committees.
- 1.2 In respect of Overview and Scrutiny Committees which deal with education functions there is a legal requirement to appoint at least one voting co-optee nominated by the Diocesan Board for Education if the area contains at least one Church of England - maintained school and at least one voting co-optee nominated by the Bishop for the Diocese if the area contains at least one Roman Catholic- maintained school. There is also a legal requirement to appoint between two and five voting parent governor representatives elected by the parent governors of maintained schools. These voting co-optees are entitled to vote on any question relating to education functions which are the responsibility of Medway Council's Cabinet and which fall to be decided by the Children and Young People Overview and Scrutiny Committee.

2. Background

- 2.1 Currently there are four places for statutory voting co-opted members and six non-voting co-opted members on the Children and Young People Overview and Scrutiny Committee as set out in Appendix A.

3. Parent Governor representatives

Background

- 3.1 There is a legal requirement to appoint between two and five voting parent governor representatives elected by the parent governors of maintained schools. The role was introduced in The Schools Standards and Framework Act 1998 as a way of ensuring that parents of children at schools within the area of the local authority have an apolitical voice on local educational matters and can hold the local authority to account for education policy and decision-making. The provision was amended in The Local Government Act 2000 to reflect the introduction of executive arrangements.
- 3.2 On 24 October 2001 Medway Council agreed that two parent governor representatives should be elected to sit on this Overview and Scrutiny Committee.
- 3.3 The Parent Governor (England) Regulations 2001 provide for the arrangements relating to the election of voting parent governor representatives to education Overview and Scrutiny Committees. Since 2001, a number of appointments to the position of Parent Governor representative on the committee have been made in accordance with these regulations. However, it had been increasingly difficult to fill the two posts since Autumn 2013, when the posts last became vacant and nominations were invited.
- 3.4 The regulations specify the qualifications for election as a parent governor representative as someone who is a parent governor at a school maintained by the local authority and is parent of a registered pupil educated at a school maintained by the local authority, or educated by the local authority other than at a school; and is not:
- already a member of a local authority;
 - a teacher at, or otherwise employed in, a school maintained by the local authority;
 - an employee of the local authority.
- 3.5 This means that parent governors of Academies do not qualify for the position of parent governor representative. With more and more schools becoming designated as an Academy, this is reducing the pool of potential parent governors eligible for the positions on the Committee and making recruitment to these vacancies increasingly difficult. Invitations for nominations have been made to all eligible parent governors in Medway on six monthly intervals since Autumn 2013, the most recent invitation running throughout September 2015, but no nominations have been received during this two year period.

Way forward

- 3.6 The Committee is invited to recommend the Director of Children and Adult Services to make representations to the Department for Education and Department for Communities and Local Government to request that this issue be investigated and should it be established that a significant number of other local authorities are in the same position that the legislation be reviewed either to:

- remove the requirement and allow local authorities to agree local arrangements for parent governor representation on the relevant Overview and Scrutiny Committee, or;
- amend the legislation to enable parent governors from schools which are not maintained by the local authority to stand for election to these positions

4. Headteacher and Teacher representatives

Background

- 4.1 The Committee is also being invited to review the current arrangements for co-opting a headteacher and teacher to serve on the Committee. Following consultation with stakeholders in 2001 the Council agreed to create seats for one non-voting head teacher and one non-voting teacher on the Committee, nominated by the Medway teacher and headteacher associations at that time. These arrangements have been in place ever since with headteacher and teacher members actively contributing to the work of the Committee and providing valued additional expertise and experience.
- 4.2 The process for nominations to these places on the Committee have not been reviewed since 2001 at which time there was no stipulation made to require representation from both Primary and Secondary schools, or local authority-maintained and other schools. The position is further complicated by new legislation coming into force in the intervening period enabling maintained primary and secondary schools, special schools, alternative provision schools and 16 to 19 providers to apply to become an academy.
- 4.3 The Committee is currently holding a vacancy for a Headteacher since the previous post holder resigned on 4 December 2014. Karen White, the Principal of Delce Academy is the named substitute for this position and has been attending meetings of the Committee in that capacity. Lauraine McManus has occupied the place on the Committee for a teacher for over ten years and has attended and contributed at meetings.
- 4.4 The Committee is invited to consider whether there should be a change in the arrangements to ensure a balanced representation between different types of school and the primary and secondary sectors.
- 4.5 For ease of reference types of school are described below:
- Community and voluntary controlled schools*
 - Foundation and voluntary aided schools
 - Special schools and Pupil Referral Units*
 - Faith Schools*
 - Free Schools
 - Academies
 - City Technology colleges
 - University Technology Colleges
 - Boarding Schools
 - Private Schools
- (Schools denoted by an asterisk either are, or may be, maintained by the local authority).

4.6 In deciding the way forward the Committee is advised to take the following considerations into account:

- i) the long established value in having the expertise and experience of a headteacher and a teacher available to the Committee in its deliberations;
- ii) the need to ensure the process for appointment to places on the Committee is transparent and fair and that there is balance between maintained and other types of schools in the primary and secondary sectors;
- iii) the significant advantages for both academies and local authorities in constructive partnership working; for example around planning, 14-19 provision or sharing good practice locally;
- iv) the relationship between academies and overview and scrutiny – a briefing note supplied to Overview and Scrutiny Committee members on this subject in December 2012 is attached at Appendix B;
- v) The current size of the Committee (25 members in total) and the scope for discussion to become unwieldy should it become much larger;
- vi) The scope to involve stakeholders from the Medway schools community in discussion through mechanisms other than co-option. For example as expert witnesses in Task Group work or by invitation to attend Committee meetings for specific issues as appropriate.

Way forward

4.7 There are several options available to the Committee including:

- a) No change – the current headteacher substitute member could be appointed to the vacancy and the current teacher would continue as a member of the Committee until the Annual meeting of the Council in 2016 and would be able to volunteer to continue at that time.
- b) Continue with places for one headteacher and one teacher but require one to be employed in a primary school and one in a secondary school.
- c) Continue with places for one headteacher and one teacher with a requirement that one place is designated for a person working in a local authority- maintained primary school in Medway and one by a secondary school (noting that the majority secondary schools in Medway are now academies).
- d) Increase the number of places for non-voting headteachers/teachers - one of each to be employed by maintained primary schools and one of each to be employed by secondary schools.

4.8 To achieve an appropriate balance without increasing the size of the Committee it is recommended that the Committee should continue to have two seats in total for headteacher/teacher members each for a two year term. The

Committee is also recommended to agree that with effect from the Annual Council meeting in 2016 one place should be for a primary school and one for a secondary school. Depending on the expressions of interest received, the Committee could then decide to, for example, designate one seat for a Medway local authority maintained school and one for an academy in Medway. The aim should be to bring a balance of expertise and experience to the Committee. It is also suggested that the types of schools represented by the headteacher and teacher could be rotated and re-appointed to after a term of 2 years. The following table provides an example of the suggested model:

May 2016- May 2018	Primary Head (Maintained)	Secondary Teacher (Academy)
May 2018- May 2020	Secondary Head (Academy)	Primary Teacher (Maintained)
May 2020- May 2022	Primary Head (Maintained)	Secondary Teacher (Academy)

- 4.9 A suggested selection criteria for these positions is attached at Appendix C to this report. It will be a matter for the Committee to determine the recommendation to Council on appointments, having regard to the designations of the schools from which applications are received.
- 4.10 The Committee is also asked to agree that the headteacher and teacher co-opted members should be appointed (rather than elected) as individuals who are invited to contribute their professional knowledge and perspective to the work of the Committee.
- 4.11 It is recommended that expressions of interest be invited via the School Improvement Bulletin and that the Director of Children and Adults should consider each against the criteria attached at Appendix C. This would be done in consultation with the Chairman, Vice Chairman and Opposition Spokespersons before bringing forward recommendations for appointment to the Committee on 3 March 2016 for onward referral to Annual Council for approval.

5. Medway Youth Parliament representatives

Background

- 5.1 The Medway Youth Parliament (MYP) has been actively representing the voice of young people on the relevant Overview and Scrutiny Committee relating to children's services since January 2002. Originally MYP had one seat on the Committee but on 30 July 2009 this was increased to two seats.
- 5.2 The Medway Youth Parliament has requested a change in the arrangements for their representation on this Committee. They would like the Chair of the MYP to hold a permanent position as a non-voting member of the Committee but for the second position to be allocated to the MYP Cabinet. MYP would then field the most appropriate MYP representative at each meeting, drawn from the MYP Cabinet, depending on the items on the agenda for each meeting. This would ensure the most appropriate MYP representatives were present and would also enable more MYP members to have the opportunity to experience participation in the committee's work.

5.3 The Committee always welcomes other members of MYP to come along to observe meetings.

Way forward

5.4 The Committee is recommended to agree to the suggestion of MYP which would offer more young people an opportunity to participate in Overview and Scrutiny Committee meetings.

5.5 If this is agreed the MYP representative positions on the Committee would be designated as follows: -

- The existing Chair of the Medway Youth Parliament
- An existing member of the Medway Youth Parliament Cabinet
- Substitute – an existing member of the Medway Youth Parliament Cabinet

6. Risk management

6.1 Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community.

Risk	Description	Action to avoid or mitigate risk
Failure to adopt an inclusive approach	There is a risk that the Committee will not have access to the views, perspective, and experience of headteachers/teachers from one particular type of school	This review invites the Committee to review arrangements for co-option of head teachers and teachers to address this risk
An increase in the size of the Committee adversely affects capacity to conduct business efficiently	Currently there are 25 members of the Children and Young People Committee. Any increase in size could generate unwieldy debate and extend the length of meetings	The Committee is encouraged to involve stakeholders and experts as a when appropriate through a variety of means rather than use formal co-option as the only mechanism for engagement

7. Consultation

7.1 The Committee will wish to take the views of existing co opted members into account in determining the way forward on this matter. The report has been drawn to the attention of all the co-opted members on the Committee who have

been encouraged to attend to take part in the discussion or submit their views in writing ahead of the meeting.

8. Financial implications

- 8.1 Whilst there are no significant financial implications arising from this report, any increase in the number of co-opted members on the Committee could generate claims for dependent carer's allowances under the members allowances scheme. This cost can be met from within the existing members allowance budget.

9. Legal implications

- 9.1 Section 9FA of the Local Government Act 2000 provides for an Overview and Scrutiny Committee to include co-optees who are not members of the Council. People who are co-opted to Overview and Scrutiny Committees under this provision are not entitled to vote unless the Council has made a scheme to allow voting (under Section 11 of Schedule A1 to the Local Government Act 2000). Medway Council has not made such a scheme.
- 9.2 In respect of Overview and Scrutiny Committees which deal with education functions Section 7 of Schedule A1 to the Local Government Act 2000 requires the appointment of at least one voting co-optee nominated by the Diocesan Board for Education if the area contains at least one Church of England - maintained school and at least one voting co-optee nominated by the Bishop for the Diocese if the area contains at least one Roman Catholic- maintained school.
- 9.3 There is also a legal requirement under Section 8 of Schedule A1 to the Local Government Act 2000 (and associated regulations - the Parent Governor Representatives (England) Regulations 2001) to appoint between two and five voting parent governor representatives elected by the parent governors of maintained schools.
- 9.4 The church and parent governor voting co-optees are entitled to vote on any question relating to education functions which are the responsibility of Medway Council's Cabinet and which fall to be decided by the CYP Overview and Scrutiny Committee.
- 9.5 The majority on any Committee where there are non-elected members with voting rights should be preserved by appointing additional councillor members where necessary in order to comply with the requirements in Sections 15 to 17 of the Local Government and Housing Act 1989. In Medway there are 8 (plus 2) Conservative Councillors serving on the Children and Young People Overview and Scrutiny Committee to meet this requirement.

10. Recommendations

- 10.1 The Committee is asked to recommend the Director of Children and Adult Services to make representations to the Department for Education and Department for Communities and Local Government in relation to reviewing and updating the legislation regarding parent governor representatives as detailed in section 3 of the report.

- 10.2 The Committee is asked to recommend Council to agree revised arrangements for the appointment of a headteacher and teacher to the Committee along with the selection criteria attached at Appendix C as set out in paragraphs 4.8 to 4.10 of the report
- 10.3 The Committee is asked to recommend Council to agree that the Medway Youth Parliament representative positions on the Committee are designated to specific roles on the MYP, as opposed to named individuals as follows:
- The existing Chair of the Medway Youth Parliament
 - An existing member of the Medway Youth Parliament Cabinet
 - Substitute – An existing member of the Medway Youth Parliament Cabinet

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Appendices

Appendix A – Current list of co-optees on the committee

Appendix B – Briefing note on the relationship between academies and overview and scrutiny

Appendix C – Suggested selection criteria for teacher and headteacher representation on the Committee

Background papers

None

**CHILDREN AND YOUNG PEOPLE OVERVIEW AND SCRUTINY COMMITTEE
CURRENT LIST OF CO-OPTED MEMBERS – OCTOBER 2014**

Co-opted position	Name	Voting or non-voting	Current term of office
Roman Catholic-Diocesan Representative	Clive Mailing	Voting	Appointed by Council on 27/05/15 Expiring May 2016
Church of England –Diocesan Representative	Alex Tear	Voting	Appointed by Council on 27/05/15 Expiring May 2016
Parent Governor Representative	Vacant since 26/6/13	Voting	Four year term of office
Parent Governor Representative	Vacant since 10/12/13	Voting	Four year term of office
Head Teacher	Vacant	Non-voting	Appointed by Council
Head Teacher – named substitute	Karen White – Delce Acaedemy	Non-voting	Appointed by Council on 27/05/15 Expiring May 2016
Teacher	Lauraine McManus	Non-voting	Appointed by Council on 27/05/15 Expiring May 2016
Teacher – named substitute	Vacant	Non-voting	Appointed by Council
Medway Governor's Association	Peter Martin	Non-voting	Appointed by Chief Executive (in consultation with Group Whips) Expiring May 2016
Medway Governor's Association – named substitute	Peter Sargison	Non-voting	Appointed by Chief Executive (in consultation with Group Whips) Expiring May 2016
Healthwatch Medway	Alan Street	Non-voting	Appointed by Council on 27/05/15 Expiring May 2016
Healthwatch Medway – named substitute	Priti Joshi	Non-voting	Appointed by Council on 27/05/15 Expiring May 2016
Medway Youth Parliament	James Peck	Non-voting	Appointed by Chief Executive (in consultation with Group Whips) Expiring May 2016
Medway Youth Parliament	Philip McCue	Non-voting	Appointed by Chief Executive (in consultation with Group Whips) Expiring May 2016
Medway Youth Parliament – named substitute	Vacant	Non-voting	

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Academies and Overview and Scrutiny – briefing note to members issued in December 2012

Members have asked about the obligation of schools with academy status to provide information to, and attend meetings of Overview and Scrutiny Committees.

A report on academies governance arrangements and the role of the local authority was presented to the Children and Young People Overview and Scrutiny Committee on 31 May 2012. This report explained to members that academies are independent schools, entirely responsible to the Secretary of State for their performance.

<http://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=15256>

The following link takes you to a set of Frequently Asked Questions about academies published by the Department for Education which clearly states there is no statutory requirement for any formal relationship between local authorities and academies beyond that which is required for the delivery of local authority statutory duties, such as the making and reviewing of SEN statements, securing sufficient education in an area and provision of home-to-school transport for eligible children

<http://www.education.gov.uk/schools/leadership/typesofschools/academies/la/a00205173/local-authorities-faqs#faq7>

The DfE says that local authorities will continue to play a strategic role locally and there will be significant advantages for both academies and local authorities in constructive partnership working; for example around planning, 14-19 provision or sharing good practice locally.

In terms of standards in academies (and holding sponsors to account for this) the lead responsibility sits with the Department for Education and the Schools Commissioner. However the Department for Education makes it clear that local authorities retain a legal responsibility for performance in the area as a whole, under the 1996 Education Act. There is no requirement for an academy, which is struggling to meet the expected level of performance to work with the local authority. However the DfE expects academies in this position to consider carefully whether or not to accept an offer of support from the relevant local authority to help raise standards.

Overview and Scrutiny Committees have no powers to require information from or attendance at meetings by academies, other than for the purpose of scrutiny of the crime and disorder functions of responsible authorities and co-operating bodies under the Police and Justice Act 2006. However information and attendance on other matters may be requested as appropriate

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**CRITERIA FOR SELECTION OF HEADTEACHER AND TEACHER TO
SERVE ON THE CHILDREN AND YOUNG PEOPLE OVERVIEW AND
SCRUTINY COMMITTEE**

1	Strength and capacity to fulfill the role – this will be assessed partly by reference to challenges facing the employing school	Essential
2	Minimum of two years in the teaching profession	Essential
3	Experience of being a National, Specialist or a Local Leader of Education	Desirable
4	Experience of an active and effective contribution which has lead to improvement in standards in schools in special measures and/or schools achieving below the floor target	Desirable