

**Education Appeals Committee – update to membership****Report by Saty Kaur, Chief Officer Corporate Solutions****Report for Decision****1 Recommendations**

Council is asked to:

- Agree to change the membership of the Education Appeals Committee to 3 from 5 members;
- Agree to amend the quorum of the Education Appeals Committee to 3 members in line with the above change of membership number; and
- Agree to update the associated Scheme to i) clarify that in terms of the relevant statute the Religious Representative of the Council requires to be appointed to a relevant committee prior to appointment to the Education Appeals Committee, ii) reflect that the Scottish Committee of the Administrative Justice and Tribunals Council has now been disbanded and iii) clarify that in terms of the relevant statute, if a member of the Committee requires to leave during a Hearing, the Hearing cannot continue (even if the parties would agree).
- Note that formal approval by Council of any (or all) of the above will require updates to the Standing Orders and associated Scheme(s) accordingly. Council is requested to delegate authority to the Executive Director Place to make the relevant changes following Council approval.

**2 Purpose of Report/Executive Summary**

To request approval for the membership and quorum of the Education Appeals Committee to change from 5 members to 3 members, and to make required amendments to the Scheme of Administration relative to the Education Appeals Committee.

**Date** Monday 4 March 2024

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### **3 Main Report**

**3.1** Education Appeals Committee is established in terms of the Education (Scotland) Act 1980 and gives parents the right to appeal against decisions of the Education Authority on:

- The schools, excluding nursery schools or classes, their children should attend (placing appeals); and
- The exclusion of a pupil from school.

**3.2** Placing appeals usually take place around May/June annually, following on from the Education Authority's placement notification. In recent years, placing appeals have increased, and more Education Appeals Committees have been required to respond to this demand.

**3.3** Currently, as per the Scheme of Administration, the Education Appeals Committee comprises 5 persons as follows:

- Elected Members or Religious Representative of the Council; and
- Non-Elected Members who meet the statutory criteria; one of whom shall be the Chair.

**3.4** Elected Members or Religious Representatives cannot outnumber Non-Elected Members by more than one. This means that at present at least two Non-Elected Members must sit on every Education Appeals Committee.

**3.5** Non-Elected Members are volunteers and receive no payment for this role. There is currently a challenge recruiting Non-Elected Members, which is being experienced across Local Authorities. This, in addition to the requirement to hold more Education Appeals Committees for placing appeals, has prompted a review of the placing appeals process.

**3.6** The current process is being reviewed to identify ways that the administration of the process could be streamlined for appellants and the internal Council services involved in the placing appeals process; as well as options to hold conjoined Committees. These changes will be implemented as soon as reasonably practicable.

**3.7** To support the improved delivery of Education Appeals Committees, it is proposed to change the membership from 5 to 3. Subsequently the quorum would change from 5 to 3. In terms of the Education (Scotland) Act 1980, an appeal committee shall consist of 3, 5 or 7 members, therefore this change would be in line with the legislation. The change to 3 members would enable better scheduling of committees to respond to the anticipated number of placing appeals for the 2024/25 school year.

- 3.8** If Council agree to the recommendation to amend the number of members of the Committee from 5 to 3, the Standing Orders and associated Scheme(s) relative to Education Appeal Committees will require to be updated. It is also recommended that the associated Scheme is amended to reflect the current statutory position as follows:
- i) Schedule A1 of the Education (Scotland) Act 1980 provides that to be appointed to the Education Appeals Committee, a person must be a member of the authority (ie an Elected Member) or already have been appointed to a committee “whose purposes include advising the authority on any matter relating to the discharge of any of their functions as education authority or discharging any of those functions on behalf of such authority”. Accordingly, Religious Representatives are required by statute to have been appointed to an advisory education committee, prior to being appointed to the Education Appeals Committee. It is recommended that wording is inserted to clarify that Religious Representatives are appointed in accordance with the relevant statutory criteria.
  - ii) The Scheme makes reference to the Scottish Committee of the Administrative Justice and Tribunals Council. This body has since been disbanded, and therefore it is recommended that this reference is deleted.
  - iii) The Scheme provides that where a member of the Committee requires to leave during an appeal, the Committee can continue if parties to the appeal so agree. This does not comply with the relevant legislation, which provides that a Hearing must be adjourned where it does not comply with the required to have 3, 5 or 7 members. It is recommended that this sentence is deleted.

## **4 Report Implications (Resource, Digital and Risk)**

### **4.1 Resource**

If the membership changes are refused, this will place significant pressure on internal services to deliver unknown numbers of placing appeals with limited non-elected members. There would be real risk that not all Education Appeals Committees would be completed by the start of the summer holidays, which would result in some parents/carers having uncertainty over the summer period as to which school their child will attend for the 2025/26 school term.

### **4.2 Digital**

No implications

### **4.3 Risk**

If the membership changes are refused, this will place significant pressure on internal services to deliver unknown numbers of placing appeals with limited non-elected members. There would be real risk that not all Education Appeals Committees would be completed by the start of the summer holidays, which would result in some parents/carers having uncertainty over the summer period as to which school their child will attend for the 2025/26 school term.

### **4.4 Ensuring Equalities (if required a separate IIA must be completed)**

No implications

### **4.4 Additional Report Implications (See Appendix A)**

See Appendix A

## **Appendices**

### **Appendix A – Additional Report Implications**

## **APPENDIX A – Report Implications**

### **A.1 Key Priorities within the Single Midlothian Plan**

Not applicable

### **A.2 Key Drivers for Change**

Key drivers addressed in this report:

- Holistic Working
- Hub and Spoke
- Modern
- Sustainable
- Transformational
- Preventative
- Asset-based
- Continuous Improvement
- One size fits one
- None of the above

### **A.3 Key Delivery Streams**

Key delivery streams addressed in this report:

- One Council Working with you, for you
- Preventative and Sustainable
- Efficient and Modern
- Innovative and Ambitious
- None of the above

### **A.4 Delivering Best Value**

Not applicable

### **A.5 Involving Communities and Other Stakeholders**

Not applicable

### **A.6 Impact on Performance and Outcomes**

Not applicable

### **A.7 Adopting a Preventative Approach**

Not applicable

### **A.8 Supporting Sustainable Development**

Not applicable