

## NORTH YORKSHIRE COUNTY COUNCIL

### YOUNG PEOPLE OVERVIEW AND SCRUTINY COMMITTEE

Minutes of the meeting held on 9 December 2008 at The Cairn Hotel, Harrogate.

#### PRESENT:-

County Councillor Caroline Seymour in the Chair.

County Councillors:- Arthur Barker (substitute for Andrew Backhouse), Elizabeth Casling, David Heather, Michael Heseltine, Steve Macare (substitute for Brian Simpson), Martin Smith, Helen Swiers (substitute for Heather Garnett) and Tim Swales.

#### Members Other Than County Councillors:-

Rev A Judd (Church of England).

Jos Huddleston (Non-Conformist Church).

Patricia Stowell (Parent Governor Representative).

Officers:- Bernadette Jones (Children and Young Peoples Service), Stephanie Bratcher (Scrutiny Support Officer) and Carol Dunn, Steve Loach Josie O'Dowd and Jane Wilkinson (Legal and Democratic Services).

Call-In Signatories:- County Councillors Bill Houlton, Margaret-Ann de Courcey-Bayley, Keith Barnes and Les Parkes.

Also in attendance – County Councillors Keith Barnes, Les Parkes together with approximately thirty five members of the press and public.

Executive Members: County Councillors Caroline Patmore and John Watson.

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### **COPIES OF ALL DOCUMENTS CONSIDERED ARE IN THE MINUTE BOOK**

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#### **199. PUBLIC QUESTIONS**

The Chairman said that other than those members of the public who wished to address the Committee in respect of the main agenda item, there had been no notice received of anyone wishing to address the Committee.

#### **200. CALL IN OF DECISION OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL AND DEMOCRATIC SERVICES) RELATING TO INSTITUTION OF PROCEEDINGS FOR JUDICIAL REVIEW OF THE SCHOL ADJUDICATOR'S DETERMINATION ON ADMISSIONS TO COMMUNITY SCHOOLS IN HARROGATE**

The following Members of the Committee all declared a personal interest in this item for the reasons listed below:-

**County Councillor Arthur Barker – as both his wife and daughter are employed by North Yorkshire County Council as teachers outside of the Harrogate area.**

**County Councillor John Watson – Chair of Governors at Boroughbridge Primary School.**

**County Councillor Margaret Ann de Courcey-Bayley – Governor at Harrogate High School.**

**Patricia Stowell – Governor at Western Primary School and Harrogate High School.**

**Jos Huddleston – as he is an educational consultant for North Yorkshire County Council.**

CONSIDERED –

The report of the Manager of Democratic Services outlining the procedure for call-in in respect of the decision made by the Assistance Chief Executive (Legal and Democratic Services) to Institute Proceedings for Judicial Review Of The School Adjudicator's Determination On Admissions to Community Schools In Harrogate.

The Chairman read out the reason given for the call-in before drawing Members attention to the tabled order of meeting as recommended in the County Council's Overview and Scrutiny Guidance/Protocols. She then outlined the purpose of the meeting and the role of the Committee. The Chairman then invited the Assistant Chief Executive (Legal and Democratic Services) to explain the reasons for her decision.

The Assistant Chief Executive (Legal and Democratic) Services first described the role of the County Council as the admissions authority and the affect of changes introduced in 2007 to the School Admission Code on the allocation of secondary places to Community Schools in the Harrogate area. In response to an objection submitted by local parents the Schools Adjudicator on 29 September 2008 upheld the objection. Following receipt of legal advice the Assistant Chief Executive (Legal and Democratic Services) said that there were grounds to challenge the decision of the Schools Adjudicator as it was beyond her powers and irrational. She described the legal issues she had considered and said that following discussions with the Corporate Director – Children and Young People's Service and the relevant Executive Members about the implications of the Adjudicator's decision she had concluded that it was appropriate to challenge the determination. Consequently on 30 October 2008 the pre-action letter (copy attached to agenda papers) was sent setting out the Council's position.

The Committee was advised that the Treasury Solicitor had already conceded that the determination of the Adjudicator was arguably beyond her powers and that the decision should be quashed. The Assistant Chief Executive (Legal and Democratic Services) said that to implement the determination which had been acknowledged as unlawful would be wrong. Discussions with the Treasury Solicitor were ongoing and it was likely that the County Council would claim costs in the proceedings. Finally she reminded the Committee that the County Council's decision in relation to its admissions arrangements for 2009/10 had been made at a meeting of the full Council held February 2008 at which all elected members had participated. The Assistant Chief Executive (Legal and Democratic Services) said that in reaching her decision she was confident that she had had taken into account all relevant information and had given it due weight. The Adjudicator had by her own admission admitted that it would be very difficult to identify other arrangements that would be any more fair and equitable.

The Committee then received a power point presentation from Bernadette Jones, Assistant Director, Strategic Services on the practical implications arising from the determination, that included an analysis of alternative admission systems and an explanation of the background and operation of the rural passport system. A copy of the slides were placed in the Minute Book.

County Councillor Bill Hoult who acted as the spokesperson for the signatories said that the call-in was in response to concerns raised by parents living in the Harrogate

town area. Their concerns had led them to make an application to the schools adjudicator who had determined that the current admission arrangements were not fair and that consultation on possible models for allocation of places was conducted. The County Council had declined to consult and had instead decided to contest the adjudicator's decision on legal technicalities. He made reference to the County Council's seven Corporate Objectives in particular "Keeping In Touch" which he said it had failed to do. The County Council had adopted an attitude of teacher knows best and had refused to consult because of the difficulties this would present. The presentation received that day was he said no substitute for proper consultation. Since the date of the adjudicator's determination precious time had been wasted. The problems surrounding the allocation of secondary school places in the Harrogate area would not go away and if the Judicial Review proved to be successful it was likely that a further objection would be lodged. It was alleged that the Treasury Solicitor had acknowledged in writing that the adjudicator had exceeded her powers and the signatories demanded that a copy of the letter be made available to the Committee. On behalf of the signatories County Councillor Bill Hoult said that the County Council should address the unfairness of the present system and consult widely with a view to seeking an alternative fairer system. In so doing it would avoid spending public monies on costly judicial review proceedings that were being entered on account of a legal technicality.

The Assistant Chief Executive (Legal and Democratic) circulated to Members of the Committee the letter from the Treasury Solicitor.

The Chairman referred Members to the schedule of public speakers not all of whom were present that had been circulated which included where provided full details of the statements, questions or comments they intended to raise. The schedule also included the details of a motion that had been received from Harrogate Borough Council. It was noted that in addition to the public speakers listed, there were a number of people present at the meeting who had indicated that they would like to speak.

The Committee then heard detailed objections to and support for the decision of the Assistant Chief Executive (Legal and Democratic Services) from several members of the public who were present at the meeting. The following key points were made:-

- Harrogate parents have complained about the admission arrangements for many years and the County Council should in response undertake a full consultation
- The current system positively discriminates against children living in Harrogate town especially those from the Jennyfield area.
- The rural passport ensures equality for rural children and promotes community cohesion

It was noted that if the application for Judicial Review was successful then all alternative admission systems would be considered by the County Council in the future however the current arrangements would remain unchanged for 2009/10.

The Executive Member County Councillor John Watson said that the County Council was keen to avoid a situation where serial objections were made to the adjudicator. The County Council's admission policy was reviewed each year with representatives from all five Harrogate secondary schools. He conceded that in the light of what he heard that day future reviews needed to be widened but he refused to be drawn on the extent of that wider consultation.

The Chairman said that it was clear that both town and rural parents would like a full and open discussion of the arrangements for the allocation of secondary places and called upon the Executive Member to make a commitment to do so that day.

The Executive Member replied that all parents were given the opportunity to respond to the County Council's annual review of its admissions policy. He did not want to raise false expectations but it was clear that the situation in Harrogate would merit special treatment.

The Chairman then invited the Assistant Chief Executive (Legal and Democratic Services) and County Councillor Bill Hoult to sum up their respective arguments.

The Assistant Chief Executive (Legal and Democratic Services) said that the decision to institute legal proceedings was based on legal grounds and also having regard to the implications arising from the decision of the adjudicator.

County Councillor Bill Hoult said that the call-in had been useful. The conflicting views that had been expressed demonstrated a clear need for public consultation and for the views of urban and rural parents not to become polarised. If a commitment that day to undertake full consultation was not secured then officers would decide what and when to consult. Application for Judicial Review did not mean that full public consultation would be undertaken in due course. Finally he ended by reading out the reason given for the call-in.

In conclusion the Chairman thanked everyone for their contribution.

Members discussed in detail the decision to apply for judicial review and requested clarification on issues raised by officers and members of the public before those Members eligible to vote were invited to vote on whether they wished to refer the decision. An amendment to the proposal was put forward that there would be no referral of the decision but that the County Council would undertake full public consultation of the admission arrangements in the Harrogate area, but this was not supported.

#### **RESOLVED –**

That the Committee does not wish to refer back the decision relating to Institution of Proceedings for Judicial Review of the School Adjudicator's Determination On Admissions To Community Schools in Harrogate to the decision maker or to refer the matter to full Council.

JW/JD