

## **EAST AYRSHIRE COUNCIL**

### **CABINET - 20 FEBRUARY 2008**

#### **OUTCOME AND RECOMMENDATIONS FROM THE CALLED-IN DECISION OF CABINET - 15 FEBRUARY 2008: PARENT COUNCILS OF CROSSROADS PRIMARY SCHOOL AND SORN PRIMARY SCHOOL: DEPUTATIONS**

##### **Report by the Chair of the Governance & Scrutiny Committee**

### **1. PURPOSE OF REPORT**

- 1.1** The purpose of this report is to present the recommendation of the Governance and Scrutiny Committee of 15 February 2008 in respect of the called-in decision of Cabinet relating to the Parent Councils of Crossroads Primary School and Sorn Primary School: Deputations.

### **2. BACKGROUND**

- 2.1** The Cabinet, at its meeting held on 24 January 2008, considered a report which informed Cabinet of requests received on behalf of the Parent Councils for Crossroads and Sorn Primary Schools to make their own presentation to Cabinet following the conclusion of the formal consultation process in respect of the Better Schools: Better Learning: A Strategy for Developing the School Estate.
- 2.2** The Cabinet meeting agreed not to accede to the requests on behalf of the Parent Councils for Crossroads and Sorn Primary Schools that the Cabinet receive deputations from them in respect of the proposals.
- 2.3** A request to “call-in” this decision of Cabinet was subsequently received by the Chief Executive on 31 January 2008. Signatories to the call-in request were Councillors Eric Jackson, Provost Stephanie Young and Councillors Rose-Ann Cuninghame, Neil McGhee and Gordon Cree.
- 2.4** The reason for the decision being “called-in” was that “we believe the Council must be transparent and open in its democratic processes. We further believe the Council should encourage the involvement of communities in order to make effective and meaningful decisions. We are of the opinion that the decision made by Cabinet not to allow the Parent Councils of Crossroads and Sorn Primary Schools to present their reports/cases directly to Cabinet goes against these principles and should be subject to scrutiny by the Governance and Scrutiny Committee with a view to referring it for reconsideration by Cabinet”.

### **3. CONSIDERATION OF THE “CALLED-IN” CABINET DECISION**

- 3.1** The “called-in” decision was considered at the Governance and Scrutiny Committee held on 15 February 2008.

- 3.2** Councillor Eric Jackson spoke in support of the reasons for the call-in. He stated that he was clear this matter was one of procedure and not in respect of the substance of the consultation. He submitted that the request from the Parent Councils was a reasonable one which would allow interested groups to express their views to Cabinet Members and was of the view that the delegation added an additional dimension to the written submissions. Councillor Jackson stated that the public should be encouraged to engage and be included in submitting their views to show the Council's decision making was open and transparent. He then gave an example of the Council's procedures in respect of hearing objections to planning applications where objectors were afforded the opportunity to address Planning Committees to put their views across.
- 3.3** Councillor Jackson then referred to the e-mail which had been sent to the Council from a member of one of the Parent Councils which had made remarks about a Senior Officer of the Council. He believed that the person who sent the e-mail had accepted she had made a mistake in doing so and regrets it being sent. It was Councillor Jackson's view that the e-mail had not been meant maliciously and, indeed, both groups had behaved very well during the consultation process, had been able to articulate their points well and researched their information in an impressive, professional way. He further stated that if Cabinet was to accept the delegation it would be able to determine the number of representatives it would wish to receive as the delegation.
- 3.4** Councillor Jackson then summed up by reiterating the reasons detailed in the call-in and asked that Cabinet be invited to reconsider the request which he deemed reasonable and which would not set a precedent for any other such requests.
- 3.5** Provost Young then endorsed the comments made by Councillor Jackson and added that the new decision making structure should be open, people should be encouraged to approach the Council and the Council should be seen to be doing the right thing.
- 3.6** Councillor Cree then stated he had attended the consultation meetings and had been impressed with the way in which they had been conducted and congratulated the Executive Director of Educational and Social Services on this process. However, his view was that the democratic process would not be complete if the views of the deputations were not heard, thus giving them a last say in the process.
- 3.7** Councillor Cuninghame also endorsed the views submitted and stated that rural schools provided a focus in the rural community and that Cabinet should reconsider their decision.
- 3.8** Councillor Neil McGhee also endorsed the comments already made and emphasised the importance of allowing people to make their case and be heard.

- 3.9** Councillor Reid then spoke in support of the Cabinet decision and stated his disagreement with the first two sentences of the call-in and in doing so he highlighted that the consultation process to date had been robust and transparent. He stated that all of the Members of Cabinet had given due consideration to the matter before the majority of them determined not to accede to these requests. He then asked David Mitchell, Head of Legal, Procurement and Regulatory Services to outline the factors which Members took into account in reaching their decision.
- 3.10** The Head of Legal, Procurement and Regulatory Services began by highlighting that the report submitted to Cabinet on this matter made no officer recommendations as this was a procedural matter for Cabinet in terms of the Standing Orders. If the decision was to accept the deputation, officers would have taken the necessary steps to facilitate the process.
- 3.11** The Head of Legal, Procurement and Regulatory Services then outlined the factors Members of Cabinet were invited to consider in reaching their decision.
- 3.12** In terms of the statutory provisions, these had last been amended in 2007. He outlined the terms of those provisions and which parties were afforded particular rights and compared these with the current consultation arrangements being carried out by the Council, which clearly significantly exceeded the prescribed minimum process laid out in statute. It was the Head of Legal, Procurement and Regulatory Services' view that there had been no gaps in either the legal, procedural or administrative processes which required to be filled, or any deficiency on the openness and transparency which required to be addressed through receiving these deputations.
- 3.13** He highlighted the statement made by the Leader of Council at the Cabinet meeting on 24 January 2008 that he intended to invite to the Cabinet meeting on 5 March 2008 any local Members of the Council who wished to participate in the discussion on the Better Schools: Better Learning Proposals before a decision was taken by Cabinet. This course of action would ensure that the democratically Elected Members would be able to express their views at the Cabinet meeting and provide representations on the width and depth of views from their communities as a whole and not just certain consultees. He also pointed out that other implications would flow from any decision to receive the deputations from Sorn and Crossroads Parent Councils insofar as it would be necessary on basic principles of due process and natural justice to afford the same opportunity to at least the Parent Councils of every other school affected by the proposals which had been the subject of consultation
- 3.14** The Head of Legal, Procurement and Regulatory Services then referred to the e-mail which had been sent into the Council which he considered was defamatory to the Executive Director of Educational and Social Services. He explained the reasons and the conflict of interest situation in which the Executive Director of Educational and Social Services would have been placed, had he attended the meeting in question. He further commented that against this background Cabinet members had been invited to consider

whether they would wish to risk introducing the same kind of approach and conduct reflected in the e-mail correspondence to a formal Cabinet meeting.

- 3.15** In conclusion he submitted that the question which ultimately required to be considered by Cabinet, and now the Governance and Scrutiny Committee, was whether there was perceived to be any added value in hearing oral submissions from one or two particular respondents against the background of a consultation process which had far exceeded the minimum legal requirements and which he believed was entirely defensible against any legal challenge or complaint.
- 3.16** During this stage, it was accepted by Members that the consultation process had been carried out in a robust and transparent way.
- 3.17** Members of the Committee then had an opportunity to raise questions to the signatories to the call-in, Chair of Cabinet and the Head of Legal, Procurement and Regulatory Services.

#### **4. FINANCIAL/LEGAL/COMMUNITY PLANNING/POLICY ISSUES - NIL**

#### **5. RECOMMENDATION**

- 5.1** Having considered the presentation made and evidence submitted, the Committee on a division by a show of hands agreed to refer the matter back to Cabinet to reconsider its decision and allow the Parent Councils of Crossroads and Sorn Primary Schools to make their own presentations to the Cabinet meeting on 5 March 2008.

Councillor Tom Cook  
Chair of the Governance & Scrutiny Committee

15 February 2008  
JMcG/KS

#### **BACKGROUND PAPERS - Nil**

Any person wishing further information on this report should contact Bill Walkinshaw, Head of Democratic Services on Tel No (01563) 576135.

**Implementation Officer: Bill Walkinshaw, Head of Democratic Services in terms of the call-in procedures**