

EAST AYRSHIRE COUNCIL

EDUCATION COMMITTEE – 13 SEPTEMBER 2005

APPLICATION FOR LETTING OF COUNCIL PREMISES

Report by the Director of Educational and Social Services

1. PURPOSE OF REPORT

The purpose of this report is to inform Members of the Education Committee of the guidance received from COSLA regarding the Protection of Children (Scotland) Act 2003: Guidance on Letting of Council Premises and to make recommendations accordingly.

2. BACKGROUND

- 2.1 A report was presented to the Education Committee of 22 March 2005 and Community Services Committee of 13 March 2005 regarding the Letting of Council Premises following the Protection of Children (Scotland) Act 2003.

At that stage, the report made reference to the fact that COSLA would be issuing guidance in the future and that amendments may be required to the application process for the letting of premises agreed through respective committees in the light of the COSLA guidance.

3. COSLA GUIDANCE

- 3.1 The COSLA Guidance has now been received into the Council and officers have been considering the implications.
- 3.2 The Guidance confirms the Council's position that people who let premises from the local authority to provide services to children are not employed by the Council nor are they volunteers. The Council therefore has no obligation to vet them and should not seek a disclosure. The Guidance further confirms that the organisation or the individual taking the let is responsible for complying with the Act and therefore the Council has **no legal responsibility under the Protection of Children (Scotland) Act 2003 for vetting of lessees, their employees or volunteers.**
- 3.3 The recommendations approved by respective committees sought to ensure that lessees were aware of their responsibility with regard to child protection. Importantly the revised letting form sought to ensure that the Council was not inadvertently taking on a policing role.
- 3.4 The Guidance from COSLA recommends that Councils should not require copies of policies such as Child Protection Policies unless there is a quality assurance role being undertaken by the Council. This is currently Council practice.

3.5 COSLA provides some examples of questions which letting forms could ask of lessees. In consultation with Legal Services it is proposed to amend Section 7 of the Letting Form to read “..... all leaders, coaches, helpers and employees who have regular access and/or hold a childcare position must be checked with Disclosure Scotland”.

3.6 The issue of an affiliated groups or individuals using Council premises is covered. There is no legal requirement for individuals who deliver services in their own right to be vetted. An individual can only obtain a basic disclosure and this does not include information about whether the individual is on the Disqualified from Working With Children List. Under such circumstances, COSLA recommends that an individual applying for a let signs a declaration that he/she is not on the Disqualified from Working With Children List. It is considered appropriate that the declaration should be contained within the conditions of the let and that the undernoted declaration suggested by COSLA used.

“Having made all appropriate enquires concerning if I could register with an umbrella organisation who could obtain disclosures on me, I confirm that as a sole operator/trader I am unable to obtain an enhanced disclosure in term of the police Act 1997 and that I have no employees paid or otherwise, and therefore will not ask any other person to act on my behalf. I also confirm that I am not listed on the Disqualified working with children list established under the Protection of Children (Scotland) Act 2003 or in the equivalent list keep for England, Wales or Northern Ireland”.

3.7 The COSLA Guidance also covers the aspect of the role of the Local Authority in promoting and supporting Good Practice in Child Protection. The Guidance contains a suggested statement which local authorities may wish to incorporate into their letting procedures. It is therefore recommended that the undernoted statement is included within the letting form/and or conditions of let.

“The Council supports safe and supportive environments for children, young people and those working with them and to encourage this will make information available in the Protection of Children (Scotland) Act 2003 as to what to expect in terms of Good Practice, to parents/carers using or halls and premises as well as to groups who provide those services”.

4. FINANCIAL IMPLICATIONS

4.1 Cost associated with this report can be met from existing resources.

5. POLICY/LEGAL IMPLICATIONS

5.1 The protection of Children (Scotland) Act 2003 does not relate directly to the letting of Council premises. However, the legislation relates to some lessees.

It is therefore considered good practice to revise the Council's letting arrangements accordingly.

6. PERSONNEL IMPLICATIONS

6.1 Nil

7. RECOMMENDATIONS

7.1 It is recommended that Members of the Education Committee:

- (i) approve the recommendations as set out in Section 3 of this report
- (iii) otherwise note the content of the report.

John Mulgrew
Executive Director of Educational and Social Services

1 September 2005
KG/JW

LIST OF BACKGROUND PAPERS

1. Education Committee Report 22 March 2005
2. Community Services Report 13 March 2005
3. Protection of Children (Scotland) Act 2003: Guidance on Letting of Council Premises (COSLA)
4. Protection of Children (Scotland) Act 2003: Guidance to the Voluntary Sector.

Members wishing further information should contact Kay Gilmour, Head of Community Support, Tel: (01563) 576104

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