

The City of Edinburgh Council

10am, Thursday, 31 August 2023

Religious Representative Voting Rights

Executive/routine
Wards
Council Commitments

1. Recommendations

1.1 Council is asked to note the integrated impact assessment.

Amanda Hatton

Executive Director of Children, Education and Justice Services

E-mail: Amanda.hatton@edinburgh.gov.uk

Report

Religious Representative Voting Rights

2. Executive Summary

- 2.1 Following discussions with the faith community and other stakeholders, an Integrated Impact Assessment has now been carried out on the removal of voting rights for religious representatives.

3. Background

- 3.1 The Education, Children and Families Committee has eleven members of the Council and has three religious representatives and three parent representatives (two will undertake the role on a shared basis). The parent representative is currently a non-voting member whilst the religious representatives have voting rights.
- 3.2 On 2 May 2019 Council, consideration was given to making the added members for education matters on the Education, Children and Families Committee all non-voting members. Further reports were considered in May and August 2019 to allow for a legal opinion to be provided to the Council and for an update on the position at Perth and Kinross Council. Consideration was further continued to allow for discussions with the faith community.
- 3.3 Legal advice also outlined that consideration of whether to remove the voting rights of additional members of the Education, Children and Families Committee should not take place until an Integrated Impact Assessment had been carried out.

4. Main report

- 4.1 In line with legal opinion, external consultants were commissioned in January 2023.
- 4.2 The specification was to conduct an independent equality impact assessment of the proposal to remove the voting rights of religious representatives on the City of Edinburgh Council's (CEC) Education, Children and Families Committee. This has now been carried out and the report is attached.
- 4.3 The report details the consultation process which has been undertaken and the views presented. The report demonstrates there was not a consensus in relation to retaining or removing the voting rights of religious representatives, but it does outline the potential impact on those with protected characteristics. The report also

details the number of times religious representatives have voted and the impact of this.

Legal position

- 4.4 The Local Government (Scotland) Act 1973 (the “1973 Act”) provides that three representatives of religious bodies shall be included on the Education committee – namely one representative of the Church of Scotland, one representative of the Roman Catholic Church (except in the case of the island authorities) and one (or two, for the island authorities) other representative of a church or denominational body.
- 4.5 The relevant current religious representatives were appointed by Council in August 2022.
- 4.6 The question of whether the Council should remove the current voting rights of the religious representatives has previously been asked and the legal advice has confirmed that it is within the Council’s gift to either confer or remove such voting rights. This was confirmed in the report to Council in August 2019.
- 4.7 The relevant legislation in relation to the appointment of non-elected members to a local authority committee is contained in section 57 of 1973 Act.
- 4.8 The 1973 Act provides that a local authority may appoint persons who are not elected members to a committee, provided that at least two thirds of the members of the committee are elected members of the authority (with the exception of a committee which regulates and controls the finance of the local authority).
- 4.9 However, there are special rules in place for education committees under the 1973 Act. An authority may appoint persons who are not members of the authority to be members of its education committee, provided that at least half of the members of the committee are elected members of the authority. Therefore, an authority may appoint non-elected members to constitute up to half of its education committee.
- 4.10 A final legal point to note is that persons who are paid employees/officers of the local authority cannot be elected members of the authority. This restriction also applies to persons who are appointed to committees without being elected members. However, there is a specific exemption for teachers in respect of membership of an authority's education committee.
- 4.11 In considering whether to remove voting rights, an Equalities Quality Impact Assessment requires to be undertaken and taken into account as part of the decision-making process.

5. Next Steps

- 5.1 This is dependent on the outcome of this report, and the decisions made by full council.

6. Financial impact

6.1 The cost of the EQIA was £4800.

7. Equality and Poverty Impact

7.1 Stakeholder consultations have been carried out by the appointed consultancy as part of the EQIA.

8. Climate and Nature Emergency Implications

8.1 N/A

9. Risk, policy, compliance, governance and community impact

9.1 The report sets out all those who have been consulted with.

10. Background reading/external references

9.1 Council Report May 2017

https://democracy.edinburgh.gov.uk/Data/City%20of%20Edinburgh%20Council/20170518/Agenda/item_51_-_appointment_of_members_to_committees_boards_and_joint_boards.pdf

9.2 Council Report June 2017

https://democracy.edinburgh.gov.uk/Data/City%20of%20Edinburgh%20Council/20170622/Agenda/item_421_-_appointment_of_members_to_committees_boards_and_joint_boards.pdf

9.3 Council Report August 2022

<https://democracy.edinburgh.gov.uk/mgConvert2PDF.aspx?ID=48101>

9.4 Council Report September 2022

<https://democracy.edinburgh.gov.uk/documents/g6468/Public%20reports%20pack%2022nd-Sep-2022%2010.00%20City%20of%20Edinburgh%20Council.pdf?T=10>

11. Appendices

11.1 Appendix 1 Equality Impact Assessment

Equality Impact Assessment

Voting Rights of Religious Representatives on CEC Education, Children and Families Committee

Introduction

The consultant was commissioned to conduct an independent equality impact assessment of the proposal to remove the voting rights of religious representatives on the City of Edinburgh Council's (CEC) Education, Children and Families Committee.

Background

The requirement for religious representatives to be members of education authority committees was introduced in the Education (Scotland) Act 1918 when Catholic schools were transferred to education authorities across Scotland. The requirement is now contained in S. 124 of the Local Government (Scotland) Act 1973.

In City of Edinburgh Council, the Education, Children and Families Committee is made up of 11 elected councillors, 3 religious representatives and 2 parent representatives (with one of those parent representative roles currently being shared). The councillors and religious representatives can vote on any motions, while the parent representatives can attend and contribute to discussions but not vote.

Some local authorities have removed the voting rights of religious representatives or are considering doing so following the decision of Perth and Kinross Council in 2019 to remove voting rights after the Lifelong Learning Committee decided by a majority of one to close a primary school with the votes of the two religious representatives being sufficient to swing what would otherwise have been a vote against the closure.

Methodology

The consultant invited a range of stakeholders to participate in the consultation part of the exercise. The invitation was extended to existing religious representatives, to councillors through party group leaders, to representatives of faith and belief organisations and representatives of equality organisations, as well as to school leaders, pupils and parent councils. The consultant was assisted in identifying potential consultees by staff from CEC and is grateful to them for their assistance.

The meetings with stakeholders took place both face-to-face and online. The consultant also accepted email comments and spoke to a small number of consultees by phone.

They conducted background research on the proposal and examined the minutes of the committee's meetings.

There was no statistical analysis required for this assessment.

Consultation

The consultant met with the three existing religious representatives, who were helpful in explaining their experience of the role. Two had joined the Committee in September 2022 and so were relatively new to the role, while the third had been on the Committee for about three years. They expressed concerns about the proposal and felt that they brought useful experience to the Committee. Two were former senior teachers and the third had experience in higher education and had been a school governor. They saw their role as being focused on issues of faith and morality, and in the case of the representative of the Catholic Church, on ensuring that the impact of decisions on Catholic schools was taken into account. In particular the representatives were concerned that the proposal reflected an erasure of faith in the public arena.

The consultant met with representatives of religious, faith and belief organisations and with representatives of equality organisations and groups. They also met with senior staff, parents and pupils from both denominational and non-denominational schools.

The purpose of the consultation was to ensure that the range of actual or potential impacts on different equality groups could be collated, rather than to measure the number of people raising a particular issue or to survey the strength of feeling on particular issues.

The equality issues raised are set out below.

Religion and belief

The most widespread issue raised was about the impact of the proposal on religion and belief. There were a wide range of views on this issue.

Many consultees from religious and faith organisations expressed concern that the impact of this measure would be to reduce the role of religion in public life. There were concerns that this was start of a “slippery slope” with the potential for the right to attend and speak at meetings also being removed, and reduced opportunities to influence decisions that impact on faith and morality. Some saw the proposal as contributing to a move to a more secular Scotland. For some, removing the right to vote was viewed as essentially taking away the likelihood that the religious representatives’ contributions would be listened to.

There was a particular concern about the impact of the proposal on Catholic schools because of the potential for a clash between education policy, whether local or national, and the religious ethos of the schools, for example in the teaching of sex education. Consultees also identified that some issues impact differently on Catholic schools, for example school transport because of the wider catchment areas of the schools. They considered the vote of the representative of the Catholic Church important in ensuring that these differences were properly considered.

Issues about the impact of the current system on those of minority faiths and those of no faith were raised in different ways by the consultees. Edinburgh Interfaith Association,

whose representative fills the third religious representative position, view themselves as having an important role in representing minority faiths, although observed that their representative may not be able to vote on issues where there are differing views among their members and communities.

Several consultees raised the question about whether the Islamic faith should be represented given the increasing size of the Muslim population in Edinburgh.

Several consultees raised the concern that those whose belief systems are not religious were not represented on the committee, and that their moral and ethical beliefs were not taken into account in decision-making, despite forming a significant proportion of the population. One parent consultee observed that parents in denominational schools or those with a religious connection had the benefit of being able to feed in concerns or issues through the religious representatives, in addition to the routes available to others.

Representatives of secular organisations expressed the view that the removal of voting rights of religious representatives was necessary to fulfil the Council's public sector equality duty.

A number of consultees were surprised that there were religious representatives on the committee but that no other protected characteristics were specifically represented on the committee.

Disability

Some consultees saw the absence of any representative of disabled people as being particularly anomalous given both the existence of specialist schools for disabled pupils and the significant number of disabled pupils and pupils with other additional support needs in Edinburgh schools.

Sex/gender

The potential for the proposed change to impact differently on girls and boys or women and men was raised by a small number of consultees. One raised the possibility that religious representatives' views on issues such as uniform/dress codes could impact on pupils differently depending on their sex. Another consultee raised the possibility that a religious representative could influence a committee decision in a way that may restrict the access of pupils to information about relationships, sexual health and parenthood, and that this could particularly impact on girls and young women.

Race or ethnicity

The Edinburgh Interfaith Association view themselves as having a role (through their representative on the committee) in giving a voice to minority ethnic communities such as the Sikh and Jewish communities and expressed concern that this voice would be lost if the vote was removed.

Other consultees pointed to the increasingly diverse range of minority ethnic communities and minority religious communities in Edinburgh, and expressed concern that the views of these communities were commonly not heard in discussions about school education.

Sexual Orientation

Some consultees identified the potential for a conflict between lesbian, gay and bisexual pupils' rights and religious belief and were concerned about the potential impact of the votes of religious representatives on the approach taken to tackling discrimination in schools.

Gender reassignment/gender identity

Some consultees pointed to the increasing number of young people in schools seeking support in relation to gender identity issues and questioned the potential impact the votes of religious representatives could have on the support available to pupils.

Other protected characteristics

There were no specific issues raised or identified in the course of the impact assessment with regard to the protected characteristics of age, marriage and civil partnership, or pregnancy and maternity.

Other characteristics

There were no specific issues identified in relation to care experienced children and young people.

Review of the Minutes of Education, Children and Families Committee meetings

In order to understand the frequency and impact of voting at Committee meetings, the consultant reviewed the minutes of the Committee's meetings from the beginning of 2021 to the most recent available minutes (31 January 2023). These minutes show that most decisions made by the Committee were passed unanimously without a vote. There were four instances of votes in that period. In the meeting on 28 May 2021 the only religious representative present abstained from voting on a motion relating to Gaelic Medium Education (GME). The motion passed by 9 votes to 2. On 7 December 2021 all three religious representatives voted for a motion on GME and against an amendment. The motion passed 12 to 2. On 20 September 2022 all three religious representatives voted for a motion on GME, which passed by 11 to 3. On 15 November 2022 the two religious representatives present voted for a motion on educational attainment and against an amendment on P1 standardised assessments. The motion passed by 11 to 2.

Conclusion

The concerns raised by consultees, both those who supported and those who opposed the change, were focused on the potential or symbolic impacts of the change, rather than any immediate measurable impact on particular groups of people who shared a protected characteristic.

With the relative rarity of decisions coming to a vote, and those that have come to a vote in the last two years passing by a significant majority, the chance of the votes of religious representatives actually changing a decision appears relatively low. However, it remains possible if a vote on a particularly contentious issue was close and the religious representatives chose to use their vote, as they have in three out of four decisions coming to a vote in the last two years.

The symbolic impact of the change in relation to religion and belief is significant both for those who support and those who oppose the proposal. For many of those who support the proposal, it removes an anomaly that gives preferential treatment to those of particular faiths at the expense of those of minority faiths and those whose beliefs are not religious. For those who oppose the change, it diminishes the role of religion in the education system and in society more broadly. More specifically it removes one aspect of direct influence that the Catholic Church has over matters that may impact the running of Catholic schools.

*Independent Consultant
Edinburgh
July 2023*