

ANGUS COUNCIL

EDUCATION COMMITTEE

6 MARCH 2001

UNDER-AGE ENROLMENT IN PRIMARY SCHOOLS

REPORT BY THE DIRECTOR OF EDUCATION

ABSTRACT

This report highlights amendments to legislation relating to enrolment of children under 5 in primary schools.

1 RECOMMENDATIONS

It is recommended that the Education Committee:

- a notes the contents of this report, in particular the clarification recently offered by the Scottish Executive on parental rights with respect to requests for children under 5 years of age to attend primary schools
- b authorises me to issue the enclosed guidelines to all primary head teachers, and to implement the arrangements described therein

2 BACKGROUND

2.1 On 13 October 2000, Section 38 of the Standards in Scotland's Schools etc Act 2000 became law. (See paragraph 0.6 of the enclosed Guidance)

2.2 It is understood that the Parliament's intention in passing this piece of legislation was and is to clarify what has been until now a somewhat imprecise situation vis a vis the legal rights of parents who wish to enrol a child in primary school before that child legally reaches school age. Whatever the intention, however, the impact of Section 38 will be that parents will be entitled to seek to ensure that any requests made for under-age children to attend primary schools are dealt with in accordance with the law as it now stands.

2.3 Current arrangements for enrolment of P1 pupils are:

- If the child's fifth birthday falls on or before the first day of the school session in August, parents are expected to enrol that child on the first day of the school session immediately following her/his fifth birthday, and are also entitled to their full legal rights in terms of pursuing a placing request for any particular school (including, if necessary, the right of appeal to a specially constituted Appeals Committee and, again if necessary, to the Sheriff Court) (*No changes to these arrangements are necessary*)
- For children whose 5th birthday falls after the first day of the school session in August but on or before the last day of the following February, then parents may choose to enrol that child in primary school on the first day of the school session prior to her/his 5th birthday, or they may choose to defer enrolment in primary school for precisely one year. In the former case, until now parental placing requests for such children have been treated in precisely the same way as all other parental placing requests (with full right of appeal, if necessary, to a specially constituted Appeals Committee followed by, again if necessary,

right of appeal to the Sheriff Court). (*SEED Circular No 1/2001 makes it necessary to implement some changes to these arrangements – see paragraphs 3.1 and 3.2 below*)

- For children whose 5th birthday falls between 1 March and the first day of the new school session that same August, parents have been discouraged from considering enrolment in primary school until after the child's 5th birthday. In the event that parents of a child of this age do wish to pursue enrolment prior to the child's 5th birthday and officers are unable to support that parental choice, the case would be referred to the Special Cases Sub-Committee of the Education Committee. (it should be noted however that no such case has arisen since the inception of Angus Council in 1996). There has however, been some doubt across Scotland about whether these requests constituted placing requests in terms of the legislation, with different Sheriffs making different rulings. (*Section 38 of the Standards in Scotland's Schools etc Act 2000 means that the procedural guidelines which constitute the Appendix to this report should now be adopted*)

3 FUTURE ARRANGEMENTS

- 3.1 On 16 January 2001, SEED issued Circular No 1/2001. This Circular addresses the legal constraints governing parental wishes for children whose 5th birthday falls after the first day of the school session in August but on or before the last day of the following February. As a result of the 2000 Act these requests are not now placing requests in the legislative sense, and there is therefore no entitlement to appeal to the Sheriff Court should the "placing request" be unsuccessful.
- 3.2 Notwithstanding this quite helpful clarification, it is proposed that "placing requests" from parents of such children should continue to be treated in the same way as they have been up to now, with parents having a right to appeal against unsuccessful placing requests to a specially constituted Appeals Committee. However, should any such request be unsuccessful both initially and at Appeal, then there will be no right of further appeal to the Sheriff Court.
- 3.3 Section 38 of the 2000 Act also has a potential impact on those children whose birthdays fall between 1 March and the first day of the new school session in August. In order to ensure that the Council complies fully with the new legislation, it is proposed that – for these children – the enclosed Guidelines should now be adopted (see Appendix).

4 HUMAN RIGHTS IMPLICATIONS

- 4.1 By approving the recommendations contained within this Report, the Committee will be taking every step to ensure that the Council complies with Human Rights legislation in this area of its work. In particular, by establishing appropriate appeals mechanisms, parents will be afforded the opportunity of a hearing complying with the requirements of Article 6.

5 CONSULTATION

- 5.1 In accordance with the Standing Orders of the Council, this Report has been the subject of consultation with the Chief Executive, the Director of Finance and the Director of Law and Administration.
- 5.2 The draft procedural guidelines were also considered by the JCC (Teachers) at its meeting on 12 February 2001 and unanimous support was offered to their content.

Jim Anderson
Director of Education

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.

