

# **Edinburgh Secular Society**

Challenging religious privilege

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David Stewart MSP  
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The Scottish Parliament

By email to [Chris.Hynd@scottish.parliament.uk](mailto:Chris.Hynd@scottish.parliament.uk)

Monday 6 January 2014

Dear Mr Stewart and members of the Committee

**PE01498 – Religious Representatives on Local Authority Education Committees**

Please accept the attached initial written submission in relation to the above petition from Edinburgh Secular Society

Should you require further information or clarification please do not hesitate to contact the Society at the above email address.

Colin Emerson  
Vice-Chair Edinburgh Secular Society

Edinburgh Secular Society  
Submission to Scottish Parliament Public Petitions Committee

**Petition PE01498 by Mr Colin Emerson on behalf of Edinburgh Secular Society**

*Calling on the Scottish Parliament to urge the Scottish Government to bring forward legislative proposals to repeal Section 124 of the Local Government (Scotland) Act 1973, as amended by Section 31 of the Local Government etc. (Scotland) Act 1994. This would end the legal obligation on local authorities to appoint three unelected religious representatives to sit on their education committees.*

**1. Background**

Education Committees of mainland Scottish local authorities<sup>1</sup> are unique in that they must have two members who are nominated by religious organisations and a third religious representative selected by an arcane procedure from other religious bodies.

The local authority has no role in selecting or approving the first two of these representatives since they have to accept the nominations of the outside bodies. They may, however, have a role in selecting the third religious representative. The first two are appointed respectively by the Church of Scotland and by the hierarchy (bishops, archbishops and cardinals) of the Roman Catholic Church in Scotland. The third is selected by a process involving the local authority and interested and eligible candidates nominated by religious organisations that have a place of worship in the local authority area. In the case of the City of Edinburgh Council in May 2012 this third representative was elected on a division among all elected councillors between two candidates nominated by local religious organisations in a debate which include hearsay evidence about the competing candidates.

Local authorities may appoint other external members to any of their committees up to a level of one third of their membership.<sup>2</sup> However, for education committees the external members may be up to one half of their membership.<sup>3</sup> In addition, the religious nominees of the two named churches on the education committees are the only external members that are required by law to be appointed by external bodies to any local authority committees and not by the local authority itself.

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<sup>1</sup> Note. This paper focuses primarily on mainland local authorities. Arrangements are slightly different for island councils but similar issues arise and some aspects of the situation in the Shetland Islands Council are examined

<sup>2</sup> Local Government (Scotland) Act 1973 Section 57(3)  
<http://www.legislation.gov.uk/ukpga/1973/65/section/57>

<sup>3</sup> Local Government (Scotland) Act 1973 section 124(2)(a)  
<http://www.legislation.gov.uk/ukpga/1973/65/section/124>

The membership of religious representatives on education committees arose because of the historical role of the Christian churches in developing the education system, but it is very questionable that they should continue to have this unique privilege in the present day.

## **2. The quality of religious nominees**

A general defence offered by the churches of this privilege is that the system of nominations produces members of committees who are well informed on educational matters and have wide experiences relevant to the work of the committees. This may well often be the case, but, if local authorities require such experience in external members, then these positions could be filled by open competition by the local authority without religious restrictions on the appointments.

## **3. Confessional sectarian appointments**

Thus in practice the relevant laws require nominees to be appointed on a confessional basis – indeed on a confessional basis that appears to legitimate and endorse the division between Roman Catholics and Protestants and which would not normally be allowed in terms of other appointments to public offices. How can the efforts of the Scottish Government to remove sectarianism in Scottish society be successful when confessional requirements are necessary for appointments to complete the formation of a local authority education committee? Why should differences among Christians as to the doctrine of transubstantiation, the authority of the Bishop of Rome, and the way in which to organise churches require separate denominational representation on local authority education committees in the twenty first century?

## **4. Specific issues relating to appointments by the Church of Rome**

Particular issues are raised by the right of the hierarchy of the Roman Catholic Church in Scotland to nominate a member to each education committee on the mainland. Why should a denomination that, according to the 2011 census, represents 16 per cent of the Scottish population have a seat on every mainland committee especially when its presence within the electorate in many local authority areas is below ten per cent?

There is also another considerable issue concerning this confessional requirement in relation to this particular religious denomination. The Roman Catholic Church in Scotland is an outpost of a foreign power based in Rome which is recognised in many aspects of international relations as an independent state. The hierarchy of the Church of Rome in Scotland, which makes the appointment of one member of each local authority education committee on the mainland, is itself appointed and disciplined by, as well as being accountable to, the overseas hierarchy of the Church. Why should the educational policy of every mainland local authority in Scotland be subject to potential influence by appointees who are nominated by a representative of a foreign power?

Some of the doctrines and practices of that Roman Catholic Church also run counter to the equal opportunity policies of the Scottish Parliament and the Scottish Government, which stress that there should be full equality of gender opportunity. The Church excludes women from the priesthood and from the hierarchy of the Church. While it may be lawful for Churches to practise such discriminatory procedures because they have managed to prevent equal opportunity laws applying to them, the acceptance of the arrangements whereby Churches can nominate members to local authority education committees is a direct affront to core public values in contemporary Scotland that are espoused by most local authorities in Scotland, the Scottish Parliament and the Scottish Government.

### **5. The appointment of the 'third' religious representatives**

The mechanisms that produce the third religious representative are also questionable. The relevant legislation requires the mainland local authorities make this appointment taking into account 'the comparative strength within their area of all the churches and denominational bodies having duly constituted charges or other regularly appointed places of worship there'<sup>4</sup>. While these measures produce greater diversity of representation within the Christian religion, they do little to generate representation from non-Christian denominations. The list of religious representatives compiled by Edinburgh Secular Society (ESS) in 2013<sup>5</sup> following the local government elections of the previous year identified only four non-Christian representatives - 2 Muslims, 1 Jew and one inter-faith representative for the 32 places available for the third position.

### **6. The situation in the Shetland Islands**

In the case of the last of these appointments it would be interesting to know if the Shetland Inter-Faith organisation has a place of worship and whether it is competent for such a representative to be undertaking the assigned position. If that person has been incompetently appointed this would prejudice all decisions taken by that committee.

ESS also notes that there are press reports<sup>6</sup> that Shetland Island Council has appointed the religious nominees but requested that they do not perform their duties. Current Council web pages indicate vacancies for two religious positions on the committee.

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<sup>4</sup> Local Government (Scotland) Act 1973 Section 124(4)(c)  
<http://www.legislation.gov.uk/ukpga/1973/65/section/124>

<sup>5</sup> <http://edinburghsecularsociety.com/wp-content/uploads/2013/07/Religious-Reps-Edinburgh-Secular-Society-July-2013.pdf>

<sup>6</sup> <http://www.scottishchristian.com/shetland-council-asks-religious-representatives-not-to-take-up-committee-positions/>  
<http://www.shetlandtimes.co.uk/2012/07/04/sic-to-ask-religious-representatives-not-to-take-up-committee-positions/>  
<http://www.shetnews.co.uk/news/4980-sic-attempts-to-curb-religious-input>  
<http://www.shetnews.co.uk/news/7724-education-committee-backs-skerries-closure>

A press report on 13 December 2013 indicates that the Inter-faith representative has been involved in Education and Families Committee work but that she did not cast a vote on a school closure decision.

It is also questionable as to whether the Shetlands Council Churches Trust is a competent body to make a nomination to the Education Committee of the Council

It has also been indicated that in the past a humanist has served in the 'third' religious place on another local authority committee. This would also seem highly questionable since humanists do not have a place of worship, nor charges as the legislation calls for.

The issues arising in the Shetland Islands Council and elsewhere raise fundamental matters about the legal requirements on local authorities to appoint external religious nominees to education committees.

### **7. The representation of other religions and denominations**

It is instructive to consider how religions and denominations other than the Roman Catholic Church and the Church of Scotland can have their interests and concerns raised in the local authority education system. Jews have specific channels in one local authority and Muslims in two, but how are their interests raised and considered in the other local authority areas? And what about the many other religions and denominations that are to be found in Scotland and which, for instance, contribute to *Time for Reflection* in the Scottish Parliament? How are the interests and concerns of members of the following religions and Christian denominations raised and considered; The Salvation Army, the Methodist Church, Baptists, The Church of the Nazarene, Scottish Episcopal Church, Quakers, Free Church of Scotland, Reformed Church of Scotland, United Reformed Church, Church of Jesus Christ of Latter Day Saints, Unitarian Church, Hindus, Buddhists, Muslims, Bahai Faith, Sikhs? And what about the religiously indifferent, secularists, atheists and humanists who constitute significant proportions of the 37 per cent of the population who recorded in the 2011 census that they have no religion?

All these groups have to raise their concerns about local educational policy matters by approaching elected councillors, education department officers, head teachers, school teachers, and school council members through the normal processes of local democracy. So why should two denominations have the specific privilege of nominating voting members of local authority education committees; and why should Christians have about 95 per cent of the nominated places?

### **8. Threats to local democracy**

It is very concerning that the three religious members of an education committee may be in a position to exercise disproportionate influence in the work of the committees that completely goes against the democratic principles on which local authorities are generally supposed to operate. Indeed the Church of Scotland Church and Society Council reported to the 2013 General Assembly that it 'estimates that these three church representatives

hold the balance of power on 19 local authority committees<sup>7</sup>. This undermining of local democracy is very worrying and requires urgent remedial action by the Parliament.

#### **9. Plea for support from the Churches for the petition**

The petitioner and Edinburgh Secular Society urge the Scottish churches to give leadership by agreeing to accept the terms of this petition and encouraging the Parliament to urge the Scottish Government to bring forward proposals to repeal the legislation that requires members of religious organisations to be appointed to local authority education committees.

After such changes of the law, it would still be open to local authorities themselves, if they felt so inclined, to appoint representatives of religious organisations to their education committees within the terms of the laws that allow the appointment of external members. Indeed, ESS is aware of a proposal for a Bill from MSP John Finnie to promote greater accountability and transparency in local government which would address the issues of religious representatives on education committees, as well as unelected members right to vote on local authority committees. The proposed Bill offers an insight as to how progressive legislative change can be introduced which enhances democracy and encourages broader active participation in local politics.

#### **10. Conclusion**

The Scottish Parliament itself should act against religious sectarianism and gender discrimination and act for local democracy and equal treatment for all forms of religion and belief by voting to urge the Scottish Government to bring forward legislative proposals that would remove religious representatives from local authority education committees in Scotland.

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<sup>7</sup> Deliverance to Church of Scotland General Assembly May 2013 p3/31 para 11.4.3  
[http://www.churchofscotland.org.uk/\\_data/assets/pdf\\_file/0020/13790/3\\_CHURCH\\_and\\_SOCIETY.pdf](http://www.churchofscotland.org.uk/_data/assets/pdf_file/0020/13790/3_CHURCH_and_SOCIETY.pdf)