

3DECISION-MAKER:	COUNCIL		
SUBJECT:	SACRE – CONSTITUTIONAL REVIEW		
DATE OF DECISION:	18 NOVEMBER 2020		
REPORT OF:	CABINET MEMBER FOR ADULT CARE		
<u>CONTACT DETAILS</u>			
Executive Director	Title	EXECUTIVE DIRECTOR WELLBEING (CHILDREN AND LEARNING)	
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STATEMENT OF CONFIDENTIALITY			
Not applicable			
BRIEF SUMMARY			
<p>The Council is required to review the Membership and Constitution of SACRE annually. Following consultation with SACRE Council is asked to consider some changes to organisations who are named as members in the SACRE constitution and further consider a request for full membership of one of the Groups prescribed by legislation.</p>			
RECOMMENDATIONS:			
	(i)	That the National Union of Teachers (NUT) and the Association of teachers and lecturers (ATL) are removed as members and replaced with an NEU (National Education Union) representative	
	(ii)	That The Voice is removed as a member organisation	
	(iii)	That the Council supports the decision of SACRE to not add South Hampshire Humanists as a full member of Group A within the Constitution but does support their membership as it currently stands as a co-opted member until such time as national legislation or guidance permits their inclusion within Group A.	
REASONS FOR REPORT RECOMMENDATIONS			
1.	Recommendation (i) Both the NUT and ATL no longer exist but have been replaced by the NEU so this should be the organisation that should be represented on Southampton SACRE		
2.	Recommendation (ii) As SCC no longer uses The Voice union as a consulting organisation there should not be a membership representative on Southampton SACRE. The position has been vacant since prior to September 2014.		
3.	Recommendation (iii) A request was made from the South Hampshire Humanists for inclusion as a full voting member of Group A (which represents faith groups). Sacre has rejected the request as this is contrary to current national legislation. Council is asked to consider whether to uphold the		

	position of SACRE or proceed with their inclusion in Group A against current national legislation and guidance.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
4.	Recommendation (i) No alternatives considered
5.	Recommendation (ii) No alternatives considered
6.	Recommendation (iii) Alternative to add Humanist representative as a full member was rejected as the inclusion of the Humanists would be contrary to existing legislation and guidance and, taking a risk based approach, unless all other Members of Group A were willing to accept their inclusion the risk of legal challenge to their membership would remain. Anecdotal evidence suggests that a similar approach has been taken by other SACRES nationally with some voting to include the Humanist organisations in their area and others indicating they would not do so until national legislation and guidance was changed.
DETAIL (Including consultation carried out)	
7.	Recommendation (i) SACRE meetings have included this within meetings minutes, no wider consultation has been carried out
8.	Recommendation (ii) SACRE meetings have included this within meetings minutes, no wider consultation has bene carried out
9.	<p>Recommendation (iii) A request for inclusion in Group A of SACRE under threat of further legal action was received from the South Hampshire Humanists organisation.</p> <p>Legal advice was sought by SACRE in September 2019, who considered that legal advice alongside information provided to SACRE members supporting the Humanists requests, so all SACRE members had understanding of the decision to be taken by Group A and the implications of it. Decisions taken by other SACREs was also considered.</p> <p>Consultation was planned to be undertaken following the January 2020 SACRE meeting as agreed with group A members. Due to the covid period the planned meeting was postponed and the professional support officer's work diverted to other priorities at that time.</p> <p>As an alternative, all group A members were given the opportunity to provide their responses to the professional support to the SACRE, via email and phone call prior to the September 2020 SACRE meeting. Not all group A members responded, but for those who did it was clear there would not be a unanimous decision to add the new group to be represented. A group agreement was required if a risk based approach to inclusion of the Humanists was to be recommended to Council in order to avoid the threat of further legal challenge from other Members of Group A who may object to the inclusion of the Humanists on the grounds the current national legislation and guidance did not support their qualification for membership of Group A.</p> <p>Sacre met to consider this matter again on 21 September when Group A outcome was reported and their decision was not to add the group into membership. At this time therefore , the SACRE is not recommending changes to Group A and the proposed Constitution for approval by the Council is set out in appendix 1</p>

RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
10.	No different or additional resource implications
<u>Property/Other</u>	
11..	No property implications
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
12.	The SACRE has been established pursuant to the Education Reform Act 1988. The membership of SACRE is determined in accordance with the provisions of s.39 of the Education Act 1996 which provides that Group A may only comprise of persons who represent such Christian denominations and other religions and denominations of such religions as, in the opinion of the Authority, appropriately reflect the principle religious traditions in the area. This is further supported by government circular 1/94 which makes clear that membership of Group A is limited to religious denominations.
13.	Therefore, until such time as the provisions of the Education Act 1996 and circular 1/94 are overturned by the Courts as incompatible with the provisions of the Human Rights Act 1998 (which enshrines the application of the European Convention on Human Rights into national law), the Education Act remains the legal position with which the Council must comply.
14.	Both NASACRE (the national body of SACRE's) and the Department of Children's, Schools and Families have been consulted on this issue and both have advised the above to be the current legal position pending any review of the legislation and / or updated guidance on circular 1.94 being issued to extend membership of Group A to reflecting the more modern recognition of religion and belief, including non-religious beliefs. Until such revised legislation or guidance is issued it remains the view of the Council's legal advisers that permitting the Humanists membership of Group A (as opposed to their current co-opted membership rights) would be contrary to current legislation.
<u>Other Legal Implications:</u>	
15.	The Humanists have raised representations with the Council on a number of occasions, including an assertion that if they are not permitted membership of group A they would seek to challenge the Council through the courts to secure membership. The Council has repeatedly advised the South Hampshire Humanists that the most appropriate route to challenge and secure membership of a SACRE lawfully would be to make representations to DCSF to issue an amendment to circular 1/94 permitting their inclusion within Group A or to issue proceedings against DCSF to secure a declaration against the current legislation as being incompatible with the provisions of the ECHR / Human Rights Act 1998. Absent a change in position from DCFS or the Courts the Council's legal advice remains that it would be contrary to current national legislation to agree to the Humanist request for membership of Group A unless all other faiths supported the Council taking a risk based approach to that change. If the Council approved the request absent the consent of other Group A members, the Council would risk legal challenge

	from another Group A member on the basis that the Humanists do not qualify for Group A membership at law.
16.	The Council is recommended therefore to retain Group A membership in its current form, and if so minded, advise, and if they wish, support, the South Hampshire Humanists to make representations to the DCSF for a change in circular advice bringing the membership of Group A into more closer alignment with the terminology and ethos of the Human Rights Act which seeks to give equal footing to both religious and other beliefs. It is the view of the Council's legal advisors that a legal challenge to the Councils adherence to the Education Act 1996 would fail, however a legal challenge against DCSF to the Education Act 1996 and associated circular 1/94 would, if made properly to DCSF as the authors of the legislation and guidance, likely succeed in securing a declaration of incompatibility through the courts should the Humanist movement pursue that option as previously advised.
RISK MANAGEMENT IMPLICATIONS	
17.	As set out above.
POLICY FRAMEWORK IMPLICATIONS	
18.	<p>The work of the SACRE contributes to the policy development of the City Council through the priority themes of increasing educational outcomes and promoting engagement and preparation for adulthood.</p> <p>They do this by ensuring that there is a Locally Agreed Syllabus for RE that meets the statutory requirements (Living Difference III 2016-2021) which supports progression of knowledge and understanding through the exploration of concepts that are studied through children's own experiences as well as through a faith, and non-faith perspective. The Agreed Syllabus Conference – the process that has to be undertaken to review the syllabus has been convened (September 2020) so that the reviewed syllabus will be ready for approval by LA and recommended to the council in September 2021 within statutory timeframes.</p> <p>Almost all schools in the city follow the syllabus, the only exceptions being Oasis academies who follow their Multi-academy trust syllabus in line with their funding agreement, Catholic schools following the diocesan syllabus and one Secondary academy developing its own syllabus in line with their funding agreement.</p> <p>SACRE members, together with the professional support advisor offer and complete monitoring visits to all schools for assurance regarding the provision and teaching of Religious Education and Collective Worship across the city's schools. It also contributes by supporting schools when needed with relevant matters additional to Religious Education such as the advice document produced from a faith's perspective regarding the recently statutory Relationships, Sex education and Health and well-being guidance. Other recent work that SACRE members have contributed to include films to support schools in their teaching and assemblies.</p>
KEY DECISION?	Yes
WARDS/COMMUNITIES AFFECTED:	South Hampshire Humanists – not ward specific
<u>SUPPORTING DOCUMENTATION</u>	

Appendices	
1.	Proposed constitution
Documents In Members' Rooms	
1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	No
Data Protection Impact Assessment	
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
Other Background Documents	
Other Background documents available for inspection at:	
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	Minutes of SACRE meetings June 2019-September 2020 available publically, and unapproved minutes from September 2020 meeting available by request as draft document