

## Scottish Parliament Region: West of Scotland

### Case 200500826: Inverclyde Council

#### Introduction

1. On 22 June 2005 the Ombudsman received a complaint from Ms C about Inverclyde Council's (the Council) proposals to reorganise secondary education in the Inverclyde area.

2. The complaints which I have investigated concerned:

(a) failure to follow 'best practice' guidelines in determining the proposed school mergers; and

(b) alleged poor quality of the consultation process.

3. Following the investigation of all aspects of this complaint I came to the following conclusions:

(a) not upheld, see paragraph 8 and;

(b) not upheld, see paragraph 12.

#### Investigation and findings of fact

4. The investigation of this complaint involved obtaining and reading all the relevant documentation including correspondence between Ms C and others, and the Council. I have also had sight of a Report to the Education and Lifelong Learning Committee (ELLC) held on 19 January 2005 on the consultation process on Secondary Education (the Report), together with a minute of that meeting and of the special meeting of the Council held on 20 January 2005; the Council's School Estate Management Plan dated February 2005 (the Estate Management Plan); the Outline Business Case, a confidential report dated June 2005 submitted to the Scottish Executive; appropriate sections of the Education (Publications and Consultation Etc)(Scotland) Regulations 1981 and amendments and Scottish Executive guidance to local authorities. Written enquiries were also made of the Council on 29 August 2005 and 21 February 2006 and their replies were received

on 15 September and 15 November 2005 and 7 March 2006. I have set out below my findings and conclusions for each head of complaint and, although I have not included every detail investigated in this report, I am satisfied that no matter of significance has been overlooked. Ms C and the Council have been given an opportunity to comment on a draft of this report.

## **Background**

5. Circular No2/2004 issued by the Scottish Executive Education Department on 30 September 2004 (the Circular) contains guidance on local authority proposals for the school estate, including school closures. Where an authority proposes to change existing school provision in any of various ways, including closing, merging or changing the site or catchment area of a school, it is required by the Education (Publication and Consultation Etc) (Scotland) Regulations 1981 (the Regulations) to publicise its proposal, consult parents and school boards affected and allow them and other interested parties a minimum 28 day period to make their views known to the authority. Under the Regulations (as amended), there is a requirement to refer a proposal to the Scottish Ministers if it involves the closure of a school whose roll exceeds 80% of its capacity. One of the schools involved in this case was more than 80% full and so the proposal was referred to the Scottish Ministers who have since given consent for its closure. 'Building our Future: Scotland's School Estate' (the Guidance) describes the process for preparing a school estate management plan and provides a systematic practical approach to option appraisal for all capital investment projects.

### **(a) Failure to follow 'best practice' guidelines in determining the proposed school mergers**

6. On 20 January 2005 a special meeting of the Council approved a decision to, amongst other things, build a new denominational secondary school on the site of existing Secondary School 1 to replace Secondary School 2 and Secondary School 1. Ms C was unhappy with this decision and believed that it was reached without the Council following recommended guidelines.

7. The Circular issued to all local authorities on 30 September 2004 made reference to the Scottish Executive's recent Options Appraisal guidance and stated that a particular sequence should be used to formulate and consider proposals for change. This sequence was: to develop and assess options weighting; balancing

and analysing; decide on the proposal(s); engage in open and genuine consultation and reach, explain and implement the final decision. The Circular went on to say that identifying and considering all relevant factors was a matter for the authority's judgement and discretion, always having regard to the importance of the views, focus and sensitivities of parents. The Circular listed six steps which the process of school estate management should follow. Step 1 required the authority to define authority-wide objectives which, in this case, were held to be that all establishments should be fit for purpose, that educational provisions should be appropriate to the needs of the discrete areas within Inverclyde and that educational provision should support the social and economic regeneration of Inverclyde. Step 2 required an assessment of the current position. I am aware that the Council had various reports by Her Majesty's Inspectors of Education and the Accounts Commission to help formulate their view and, in the autumn of 2003, they also engaged a firm of independent chartered surveyors to provide an opinion on the existing school estate. On the basis of this and other information, the Council went on to assess the condition of existing schools and to review needs and priorities (Step 3). Steps 4, 5 and 6 related to the development of the plan, implementation and monitoring.

8. From the extensive information available to me as set out in this report, I am satisfied that the Council were aware of, and followed, Scottish Executive guidelines, in particular with regard to Steps 1, 2 and 3 which are relevant to this aspect of the complaint. The fact that they used their judgement and discretion in how they treated the information before them and in reaching decisions did not in any way reflect a failure on the Council's part. I do not uphold this aspect of the complaint.

**(b) Alleged poor quality of the consultation process**

9. The Circular stated that consultation was the key to the whole process, with emphasis on both the quality and quantity of consultation. In relation to this, on 3 June 2004 the ELLC remitted to the Director of Education the responsibility of preparing statutory consultation documents. Amongst other things, these proposed that a new school was to be built on the site of Secondary School 1 to replace existing Secondary Schools 1 and 2.

10. On 30 September 2004, the Council gave approval to issue the consultation

document on the provision of denominational secondary education across Inverclyde. The appropriate Regulations set minimum requirements for the consultation process and in his Report to Committee the Director of Education Services stated that, 'In accordance with the statutory requirements, parents of the affected schools and school boards were consulted. Copies of the consultation document were also made available to parents, schools' staff, members of the ELLC, teachers' unions, MPs, MSPs and other Council Services'. The Business Case subsequently presented to the Scottish Executive also showed that the Council had undertaken a survey of residents and school board chairs, consulted with staff, trade unions and pupils.

11. The Report also listed the issues raised by objectors and the Council's responses but, nevertheless, concluded that delay in reaching decisions would result in pupils continuing their education in existing, and often inadequate, buildings over a longer period of time and could jeopardise access to PPP Revenue Support Funding.

12. There was no doubt that the Council and Committee were aware of the opposition and strength of feeling in the area. However, given the comprehensive detail which was provided to me by the Council about the way in which they undertook the consultation process, I cannot conclude that this was in any way faulty. Accordingly, I do not uphold the complaint. Although Ms C and others felt that the Council's ultimate decision was an incorrect one, I have seen the extent of information put to the relevant Committee (including the Director's report and representations) when they considered the matter on 19 January 2005. While a minority of members did not support the recommendations and asked for the matter to be considered by the full Council, a special Council meeting held on 20 January 2005 agreed by majority to approve the proposals.

### **Conclusion**

13. The Council had a difficult situation to handle. Their responsibility in terms of the Guidance was to the wider community and current and future generations of parents and their children. At the same time, they had an obligation to manage the concerns of parents, like Ms C, who were anxious about the implications of the proposals for their children. This was especially so given Ms C's commitment to, and confidence in, her children's school. Regrettably in this case, it has not been

possible to satisfy the interests of all those involved and Ms C is likely to be disappointed at the outcome of her complaint to this office. Nevertheless, after considering the extensive information available, I am satisfied that the Council acted in accordance with established guidelines and procedures and, when the proposals were to be considered, the full Council agreed by a majority to approve them. In all the circumstances, I do not uphold Ms C's complaints.

27 June 2006

**Explanation of abbreviations used**

Ms C	The complainant
The Council	Inverclyde Council
The Report	A report to the Education and Lifelong Learning Committee held on 19 January 2005
The Circular	Circular No2/2004 issued by the Scottish Executive Education Department
The Regulations	The Education (Publication and Consultation Etc)(Scotland) Regulations 1981
The Guidance	'Building Our Future: Scotland's School Estate'
The ELLC	The Education and Lifelong Learning Committee
The Estate Management Plan	The Council's School Estate Management Plan dated February 2005