

## Scottish Parliament Region: Central Scotland

### Case 200501358: South Lanarkshire Council

#### Introduction

1. On 19 August 2005 the Ombudsman received a complaint from a man (Mr C). Mr C complained to South Lanarkshire Leisure Trust Ltd (the Leisure Trust) about the choice of music being played at one of the body's swimming pools.

2. Mr C alleged that a song ('You'll Never Walk Alone') he considered to be sectarian, was being played at his local swimming pool. Mr C complained that the song was being played on a daily basis and was causing trouble at the swimming pool. He was dissatisfied with the action taken in response to his representations, including his request for a meeting to discuss the situation.

3. The complaint from Mr C which I have investigated concerned the Leisure Trust's handling of his complaint on this matter.

#### Background

4. Section 5 of the Scottish Public Services Ombudsman Act 2002 sets out matters which the Ombudsman is entitled to investigate. These include, any action taken by or on behalf of a listed authority. In this case I established that the Leisure Trust delivered sports and recreation services on behalf of South Lanarkshire Council, and as such, the actions of the Leisure Trust were matters which the Ombudsman could investigate.

5. Following the investigation of all aspects of this complaint I found no evidence of maladministration or service failure on the part of the Leisure Trust in their handling of Mr C's complaint. Accordingly, I did not uphold Mr C's complaint (see paragraph 19).

#### Investigation and findings in fact

6. On 21 December 2005, I wrote to South Lanarkshire Council (the Council), as the listed authority under the Ombudsman's jurisdiction, setting out the complaint as put by Mr C and inviting comments on it. In particular, I asked the Council for:

- (a) details of how often the song was played at the swimming pool;
- (b) details of the number of complaints received from users of the swimming pool in connection with the song;
- (c) information on the number of incidents of trouble, if any, at the swimming pool attributed to the playing of the song.

7. The investigation of this complaint involved obtaining and reading all relevant documentation, including correspondence between the Leisure Trust and Mr C. I also discussed the complaint with the complainant and the Council and, while I have not included in this report every detail investigated, I am satisfied that no matter of significance has been overlooked. Mr C and the Council have been given an opportunity to comment on a draft of this report.

8. On 10 June 2005 Mr C complained to the Leisure Trust about the playing of the song (You'll never walk alone). Following advice on how to progress his complaint he wrote to the Leisure Trust's General Manager (Officer 1) who responded to him on 27 June 2005. Officer 1 explained that the song was one of 100 songs played at the swimming pool, randomly chosen by a computer, under one of six sections stored in the system. He further explained that the song was not regarded as being sectarian and that he was not aware of any arguments arising at the swimming pool over the playing of the song. Mr C disagreed with Officer 1 and, in line with the Leisure Trust's complaints procedure, was advised of his right to progress the matter to the Leisure Trust's Board of Directors.

9. Mr C wrote to the Company Secretary of the Leisure Trust on 18 June 2005 detailing his continuing concerns and requesting that the matter be considered by the Leisure Trust's Board of Directors. Mr C also provided copies of newspaper articles which he believed supported his view that the song was of a sectarian nature. (The newspaper articles included general sport reports). The matter was considered by the Board of Directors who, having taken into account all the information provided by both the complainant and Officer 1, confirmed that they were of the view that the song was not of a sectarian nature.

10. Mr C remained dissatisfied and referred his complaint to this office.

11. In response to my enquiry, the Council's Head of Administration (Officer 2) was not able to confirm how often the song in question was played at the swimming pool. However, he did confirm that the pool had a multi-media system which contained 1000 tracks which were split into six sections/categories, each containing approximately 100 - 150 tracks. Officer 2 confirmed that the song 'You'll never walk alone' was contained within the 1960's section which he stated was not played very often, the most popular being the 'Easy Listening' Section. Officer 2 confirmed that the random selection button was always used.

### **Conclusions**

12. I note Mr C's contention that the song is being played on a daily basis and I am aware that the Leisure Trust are unable to say how often the song is played at the swimming pool. However, I have seen no evidence that the song is not being chosen on a random basis.

13. Officer 2 further explained that, to date, only three complaints (including Mr C's) had been received about the song and that no disturbances or incidents had been reported at the swimming pool.

14. I have considered the three separate complaints which have been received in connection with the song. I accept that the complainants are unhappy about using the swimming facility as long as the song continues to be played. However, I have seen no evidence that there have been reported incidents or disturbances at the swimming pool.

15. Turning to Mr C's request for a meeting, Officer 2 confirmed that, while the Leisure Trust had received a considerable amount of correspondence from Mr C on the matter, and had discussed his concerns by telephone, they had no record of a request for a meeting. While it is open to Mr C to contact the Leisure Trust if he would like to discuss the possibility of a meeting, I am satisfied that the issues raised by Mr C have been fully explored in the correspondence with him.

16. Officer 2 confirmed that the Leisure Trust did not accept Mr C's contention that the song was of a sectarian nature and as such they were not prepared to remove the song from the multi-media system used at the swimming pool. I note their

discretionary decision, taken after consideration of all relevant information.

17. I believe Mr C brought his complaint to this office expecting that the Ombudsman, would rule on whether the song is sectarian. I sought in my contact with Mr C to manage his expectations and to explain that my investigation was focused on determining whether the Leisure Trust took all reasonable steps to investigate Mr C's allegations and complaint.

18. There is no doubting Mr C's strength of feeling in this case and he has presented a considerable amount of documentation which he believes supports his view of the song. However, clearly, the Leisure Trust do not accept Mr C's contention that the song is of sectarian nature and as such are not prepared to remove the song from the swimming pool's multi-media system. This is a matter for the Leisure Trust to decide. The Ombudsman cannot question the merits of a discretionary decision unless there is evidence of fault on the part of a body in the decision-making process.

19. I am satisfied that the Leisure Trust have considered Mr C's representations and have taken into account the information provided by him. They have also explained fully their position to him. I see no evidence of maladministration or service failure on the part of the Leisure Trust in their handling of the matter. I do not uphold Mr C's complaint.

27 June 2006

**Explanation of abbreviations used**

Mr C	The complainant
The Leisure Trust	South Lanarkshire Leisure Trust
The Council	South Lanarkshire Council
Officer 1	General Manager, South Lanarkshire Leisure Trust
Officer 2	Head of Administration, South Lanarkshire Council