

Scottish Parliament Region: West of Scotland

Case 200502380: Inverclyde Council

Introduction

1. On 13 November 2005 the Ombudsman received a complaint from Mr C about the 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 conduct a proper options appraisal including aspects of site appraisal; and
- (b) alleged poor quality of evidence used in predicting school roll figures and assessing school capacity.

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

- (a) not upheld, see paragraphs 8 and 9;
- (b) not upheld, see paragraph 11.

Investigation and findings of fact

4. The investigation of this complaint involved obtaining and reading all the relevant documentation including correspondence between Mr C and others, and the Council. Other documentation included 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. Mr 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 conduct a proper options appraisal including aspects of site appraisal

6. There exists clear advice about options appraisal from the Scottish Executive to local authorities. The Guidance describes the recommended process. From information available to me I understand that the Council agreed the recommendations of a Cross Party Review group on Secondary Education that eight secondary schools be reduced to five, comprising three new build schools and two refurbished schools. These recommendations were the culmination of a series of meetings where the various options were discussed. The consultation on the re-organisation of secondary education was carried out following the Council's decision to proceed on the basis of the Group's recommendations. The options

appraisal that was included in the revised Outline Business Case in June 2005 was based on the delivery of the decisions taken by the Council in January 2004 in relation to primary education and in January 2005 in relation to secondary education. The Council said that the aim of this options appraisal was to demonstrate to the Scottish Executive that a wide range of delivery options had been considered and that their preferred choice maximised the level of revenue support for the PPP component of the School Estate Strategy. In order to provide a basis for comparison, the Council said that each option was costed, and a programme was drawn up and assessed against a set of evaluation criteria. The criteria concerned were education, technical (including sites), the Council's PPP programme and financial considerations. A scoring matrix was then compiled and, as a consequence of this analysis, the Council decided on the option that they considered best met the needs of their area. In their view, the preferred option ensured that all the educational establishments would be fit for purpose, be appropriate to the needs of discrete areas covering all Inverclyde and support economic and social regeneration.

7. In so far as site appraisal was concerned, I am satisfied that as part of the options appraisal the Council looked at potential sites. Of 16 potential sites, it was considered that there were three that were most suitable for secondary schools. Two of these were existing schools and the third was in Council ownership. Local groups questioned the inclusion of this third site as they considered that it had environmental problems. As a consequence, site investigations were undertaken and a report produced. However, the report indicated that it was unlikely that any contamination would prohibit the site being used for a secondary school.

8. Mr C did not consider that a proper options appraisal took place, particularly as it did not include the status quo as an option. However, I am aware that consideration was given to this. In the Report referred to in paragraph 4, the Director of Education Services makes specific reference to the status quo and the possibility of upgrading existing buildings as far as possible within existing funding. For a number of reasons, not least the declining pupil population in two of the area's denominational secondary schools and the effects this would have on the provision of education and education choices, the Council found this option unacceptable. Accordingly, they pressed ahead with their favoured option. While this was not acceptable to many parents, including Mr C, it is not indicative of a

failure of the Council's part with regard to this aspect of the complaint and I do not uphold it.

9. Finally, in connection with options appraisal, concern was expressed whether once the options were identified, they were subject to sensitivity analysis. The Guidance stated that sensitivity analysis should be fundamental to options appraisal and should be used to test the vulnerability of options to future risks that might be unavoidable. The Council have confirmed that sensitivity analysis was carried out on the preferred options, as required by the Scottish Executive guidance. They provided me with details of the analysis. In this case, I am satisfied from our specific enquiries that the Council followed the required procedures and, in the circumstances, I have seen no evidence to suggest that the Council failed in its responsibilities in this regard.

(b) Alleged poor quality of evidence used in predicting school roll figures and assessing school capacity

10. The Council stated that, as well as inviting written representations, a number of public meetings were held with school boards, trades unions and teaching groups. These meetings were referred to in the Report made to the ELLC meeting held on 19 January 2005. The Report also referred to the criticism that the analysis of roll projection was flawed but stated that a detailed explanation of how the roll projections were carried out was contained in an annex to the Report. The annex contained information on roll projection methodology, its assumptions and provided illustrations of how changes to the assumptions would affect the projections.

11. There were subsequent amendments to the projections and these caused Mr C concern. However, the Council said that, given the number of variables involved in determining roll projections, they were always subject to review. In January 2006, a report detailing the 2005 projections was submitted to the ELLC. The Council said that the 2005 projections confirmed the consistent downward trend in pupil population in Inverclyde. In fact, the 2005 projections showed that in 2015 the overall secondary pupil population would be less than that projected in 2004. This was notwithstanding the growth of population in areas like Wemyss Bay and Inverkip. In the circumstances, I am not persuaded by the complainant's arguments and I do not uphold the complaint.

Conclusion

12. 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 Mr C who were anxious about the implications of the proposals for their children. This was especially so given Mr C's commitment to, and confidence in, his children's school. Regrettably in this case, it has not been possible to satisfy the interests of all those involved and Mr C is likely to be disappointed at the outcome of his 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 Mr C's complaints.

27 June 2006

Explanation of abbreviations used

Mr 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