

Scottish Parliament Region: Highlands and Islands

Case 200502085: Argyll and Bute Council

Summary of Investigation

Category

Local Government: Education; Special needs education

Overview

The complainant (Mrs C) complained to our office that the Council failed to respond to her complaints to them about issues concerning the education of her son. She alleged that, despite attempting to raise her concerns with the Council, they failed to consider her complaint in line with their formal complaints procedure.

Specific complaint and conclusion:

The complaint from Mrs C which I have investigated is that the Council failed to respond to a formal complaint in respect of the education of the complainant's son (*upheld*).

Redress and recommendation

The Ombudsman recommends that staff are reminded of the importance of following their formal complaints procedure.

Main Investigation Report

Introduction

1. On 21 November 2005 the Scottish Public Services Ombudsman Office received a complaint from a Mrs C. Mrs C complained that Argyll and Bute Council (the Council) had failed to respond to the formal complaints she raised with them on 30 November 2004 and 14 March 2005 in connection with the education of her son.

2. The Scottish Public Services Ombudsman Act 2002 details what our office can and cannot investigate. Schedule 4, Section 10 of the Act states that the Ombudsman cannot investigate:

Actions concerning-

- (a) the giving of instruction, whether secular or religious, or
- (b) conduct, curriculum or discipline, in any educational establishment under the management of an education authority.

3. The complaint from Mrs C which I have investigated is that the Council failed to respond to a formal complaint in respect of the education of the complainant's son.

Investigation

4. I examined the correspondence forwarded by the complainant, reviewed the relevant Council policies and made enquiries of the Council both in writing and by telephone. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr and Mrs C and the Council were given an opportunity to comment on a draft of this report.

The Councils failure to respond to her formal complaints in respect of the education of her son

5. On 30 November 2004 Mrs C completed a complaints form in respect of problems her son was having at his secondary school. On 2 December 2004 this complaint was acknowledged by the Head of Service for Secondary Education and Pupil Support (Officer 1), who advised that he would respond when he had investigated the allegations. He also gave rights of referral to the Director of Community Services (the Director).

6. There had previously been substantial contact between Mrs C and the Education Authority (the Authority) in respect of Mrs C's son's education. As a result of this, and because of on-going disagreement between Mrs C and the Authority, Officer 1 decided that the best way to try and address her complaints was to offer mediation by an established mediation service provider. This offer of mediation was accepted by Mrs C.

7. Mediation sessions took place on 17 January, 27 January and 17 February 2005. Although the education team felt that mediation had been successful, Mrs C asked for her complaint to be forwarded to the Director, this was duly done by memo on 2 March 2005. On 14 March 2005 Mrs C's husband (Mr C) wrote to the Director adding two further complaints to their original ones including a complaint about the delay in responding to the original complaints.

8. This letter was acknowledged on 16 March 2005 by the Director and again on 8 April 2005 when he advised that he was still investigating and would be in touch when his investigation was complete. He also advised that he had been in discussion with Officer 1 and intended to follow-up these discussions. It appears that these discussions were followed up by the Director who was informed that Mrs C's son was now placed in another school. It was felt that as Mrs C's son had now transferred to a school in a neighbouring community, the issues complained about had now been resolved.

9. The Council's Chief Executive advised me that the Director did unfortunately fail to follow-up his letter to Mr and Mrs C of 16 March 2005 in order to conclude matters.

Conclusion

10. Mr and Mrs C complained that the Council failed to properly respond to their complaints of 30 November 2004 and 14 March 2005. I believe that the Council properly considered the complaint of 30 November up to and including mediation but failed to respond appropriately to the subsequent referral to the Director of both the original complaint and that of 14 March 2005.

11. I believe that the Council went to great lengths to try and resolve Mr and

Mrs C's concerns on receipt of the complaint of the 30 November 2004. However, because of the procedural error in respect of the Council's failure to complete the complaints procedure, I uphold the complaint. The Chief Executive has advised me that the Director wishes to pass on to Mr and Mrs C his apologies for failing to formally respond to the letter of 14 March 2005.

Redress and recommendations

12. The Ombudsman recommends that staff are reminded of the importance of following their formal complaints procedure.

29 August 2006

Explanation of abbreviations used

Mrs C	The complainant
The Council	Argyll and Bute Council
Officer 1	Head of Service for Secondary Education and Pupil Support
The Director	Director of Community Services
The Authority	The Education Authority
Mr C	The complainant's husband