

Case 200600466: East Renfrewshire Council

Summary of Investigation

Category

Local government: School Transport

Overview

The complainant (Ms C) whose child attended a local primary school, was concerned that a decision taken by East Renfrewshire Council (the Council) to withdraw the provision of free school buses for children of primary school age living within a two mile radius of a school was taken without risk assessment, impact analysis or transport assessment. She believed that the decision-making process was flawed. In addition, Ms C complained that the Council had not followed their complaints procedure and that correspondence she received from the Council's Chief Executive was inappropriate and intimidating.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) the Council's decision to withdraw free school buses was taken without risk assessment, impact analysis or transport assessment (*not upheld*);
- (b) the Council did not adhere to their complaints process (*upheld*);
- (c) the Council's conduct in communicating with Ms C was unprofessional and inappropriate (*not upheld*); and
- (d) a letter sent from the Chief Executive to Ms C on 15 May 2006, headed 'Staff Protocols', was inappropriate and intimidating (*upheld*).

Redress and recommendations

The Ombudsman recommends that the Council:

- (i) apologise to Ms C for failing to accept her complaint under their complaints procedure;
- (ii) put in place measures to ensure that, in future, complainants are given accurate information straightaway when their complaints will not be accepted under paragraph 6 of the Council's complaints procedure; and
- (iii) apologise to Ms C for sending her what I consider is an inappropriate and intimidating letter.

The Council have accepted the recommendations and will act on them accordingly.

Main Investigation Report

Introduction

1. On 16 May 2006, the Ombudsman received a complaint from a woman, referred to in this report as Ms C, about East Renfrewshire Council (the Council)'s failure to carry out any risk assessment, impact analysis or transport assessment before deciding to withdraw the provision of free school buses for children of primary school age living within a two mile radius of a school. Ms C also complained that the Council failed to adhere to their complaints procedure and that the Council's communication with her was inappropriate and intimidating.

2. The complaints from Ms C which I have investigated are that:

- (a) the Council's decision to withdraw free school buses was taken without risk assessment, impact analysis or transport assessment;
- (b) the Council did not adhere to their complaints process;
- (c) the Council's conduct in communicating with Ms C was unprofessional and inappropriate; and
- (d) a letter sent from the Chief Executive to Ms C on 15 May 2006, headed 'Staff Protocols', was inappropriate and intimidating.

3. Ms C also complained about the behaviour of the Leader of the Council and the way he originally dealt with her complaint. I informed Ms C that complaints about individual elected members could not be considered by the Ombudsman, but should be made to the Standards Commission for Scotland. I advised Ms C that I would only be able to consider parts of her complaint that related to the actions of Council officers.

Investigation

4. The investigation of this complaint involved obtaining copies of the complaint correspondence between Ms C and the Council. In addition, I obtained copies of the following documents: the Council's complaints procedure; reports dated 15 February 2005 and 7 June 2005 submitted to the Council's Policy Review Committee by the Director of Education; the minutes of the Council's Policy Review Committee dated 15 February 2005, 7 June 2005, and 16 May 2006; the minutes of a meeting of the Council's Cabinet dated 23 June 2005; and the minutes of meetings of the full Council dated 9 February 2006 and 4 April 2006.

5. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Ms C and the Council were given an opportunity to comment on a draft of this report.

Background

6. On 28 February 2006, Ms C wrote an email to the Council's Customer Services department, in which she asked for an explanation of the Council's decision to withdraw free school buses, whether it would affect her child's school and what routes would be affected. On 2 March 2006, the Council's Director of Education wrote to Ms C stating that she would shortly receive a letter explaining the change in entitlement to free school transport in the primary sector. He explained that if children lived more than two miles away from their local primary school then they would not be affected. If they lived within two miles then their entitlement would cease.

7. Between 3 April 2006 and 4 May 2006, Ms C was involved in an email exchange with the Leader of the Council. On 3 April 2006, she wrote to him asking a number of questions about the Council's actions in relation to the decision to withdraw the provision of free school buses and raising a number of complaints. The Leader of the Council responded on 10 April 2006. On 26 April 2006, Ms C wrote to the Leader of the Council again, re-stating her complaint and asking for confirmation that her email had been logged as a formal complaint.

8. On 2 May 2006, the Leader of the Council informed Ms C that if she wanted to log a complaint against the Council she should do so in the proper fashion and that he felt he had tried to respond to her in an open and honest fashion. On the same day Ms C replied that she felt she was following the complaints procedure which stated that 'the quickest and easiest way to complain is to contact the person you have been dealing with and tell them what the problem is'. Ms C copied that email to Customer Services as she was not happy with the way the Leader of the Council had responded to her complaint.

9. On 3 May 2006, the Leader of the Council responded that he felt there was nothing more he could add to what he had already told Ms C and said that the Council's decision regarding the school buses would not be reversed. He confirmed that contacting 'Customer First' (the Council's Customer Service Team) was the correct way to progress her complaint. Ms C replied on 4 May 2006 that she felt the Leader of the Council had failed to invoke the

Council's complaints procedure and she believed that her correspondence had been dealt with unprofessionally.

10. On 10 May 2006, the Council's Head of Administrative Services wrote an email to Ms C stating that the Leader of the Council and the Education Department had already responded to Ms C's complaint and that he had nothing to add. He said that, if Ms C was dissatisfied, she could contact the Ombudsman. Ms C replied on the same day, stating that she was displeased that the Council's complaints procedure had not been invoked when she complained originally to the Leader of the Council. She also outlined a number of points that she felt had not been adequately answered. Again on the same day, the Head of Administrative Services replied that he was not qualified to respond to the matters of detail that Ms C had raised and which were already the subject of responses from the Education Department and the Leader of the Council. He stated that the purpose of his previous email had been to let Ms C know where she should direct her complaint if she was unhappy with the response the Leader of the Council had given her on behalf of the Council. Again on the same day, Ms C wrote an email to the Head of Administrative Services asking him to call her to discuss her complaint prior to her escalating it and contacting the Chief Executive. The Head of Administrative Services replied that a telephone conversation would serve no useful purpose and that he had nothing further to add.

11. On 11 May 2006, Ms C wrote an email to the Head of Administrative Services stating that she was not satisfied with the way her complaint had been handled and wished for it to be escalated to Step 3 of the complaints procedure. The Head of Administrative Services replied on the same day, stating that there appeared to be some confusion relating to the relevance of the Council's complaints procedure to the matters Ms C was complaining about. He said that the complaints procedure was designed for customers who were unhappy with an aspect of service delivery or some other operational issue to have their complaint investigated at a senior level. He said that Ms C was not happy with the Council's policy and their decision to amend their policy on school transport arrangements. He said that that decision could not be challenged via the Council's complaints procedure.

12. Ms C replied on the same day, stating that the Head of Administrative Services had misunderstood her complaint and that she was complaining about: the robustness of the decision-making process; the failure of the Council to

comply with their own complaints procedure; and unprofessional responses to her complaint in terms of content and failure to respond to issues that she raised. She said she, therefore, felt her complaint was valid in terms of the complaints procedure. On the same day, the Head of Administrative Services replied that it was clear they had divergent views. He said that if Ms C felt the Council had not taken into account all relevant factors in reaching their decision then the matter should be taken up with the Ombudsman. He said that a large number of people had made representations about the amendment to the Council's policy but that Ms C was the only one who had sought to invoke the Council's complaints procedure. He said that as the procedure did not apply to matters of policy the question of whether the Council had followed the procedure was not relevant. He went on to state (incorrectly) that the question of the Leader of the Council's behaviour was a matter that the Ombudsman could consider and determine whether there was a case to answer.

13. Ms C replied on 12 May 2006 stating, again, that she felt her complaint had been misunderstood and that she was complaining about process rather than policy. She said that her complaint about whether appropriate assessments had been carried out prior to a decision being taken was a process issue and that the Council's failure to answer her questions and the tone of their responses was a service issue. She also felt that the Council's failure to adhere to their timescales for responding to correspondence was a service issue. She asked that her complaint be escalated to the Chief Executive.

14. On 15 May 2006, the Chief Executive wrote a letter to Ms C headed 'School Transport' which dealt with a number of the issues Ms C was concerned about. He confirmed that he agreed with his colleagues that her complaint did not meet the normal criteria for inclusion in the complaints procedure and was, therefore, not treated as such. On the same day, the Chief Executive wrote a letter to Ms C headed 'Staff Protocols' which stated:

'I notice in all the considerable private correspondence you have recently had with the Council you are using a [work] email address at many varying times within normal office hours. I also note that you invited [Head of Administrative Services] to telephone you at work on what is a matter of private business.

Could you please let me have sight of [place of work's] protocol for staff in terms of conducting private business while at work as it seems considerably more relaxed than that which applies within the Council.'

15. On 19 May 2006, Ms C wrote an email to the Chief Executive thanking him for answering a number of her outstanding questions and informing him that she would, however, be referring her complaints to the Ombudsman. She also asked why the Chief Executive had requested the information outlined in his letter headed 'Staff Protocols'. She explained that if there was a valid reason for his request, she would pass it on to an appropriate person at her work. She asked for an explanation of the connection between her place of work's email policy and her complaint to the Council.

16. On 22 May 2006, the Chief Executive wrote an email to Ms C stating that the question he had asked about her place of work's policy on the conduct of private business within working hours had nothing to do with her complaint, which was why he had written to her separately on that issue. He stated that he would now correspond directly with her place of work.

17. On 3 August 2006, Ms C wrote an email to the Chief Executive asking whether he had received any response from her place of work and asking for a specific reason why he had written her a side letter on 15 May 2006 which referred to her place of work's email policy and her use of that facility.

18. On 7 August 2006, the Chief Executive replied that he was in the process of renegotiating conditions of service with trade unions representing the Council's workforce and that, once that process had been completed, he would contact other organisations for information in such areas as access to the internet and use of email facilities in order to form a view on what represented standard practice.

19. On 8 August 2006, Ms C wrote an email to the Chief Executive saying that in view of what he had said, she presumed that the Council would approach companies directly for information. She said that his letter headed 'Staff Protocols' made specific mention of the time and number of emails sent to the Council from her work email address. She said that she believed the purpose of the side letter was to intimidate her and stop further communication with the Council on the school bus issue. She said that if she was employed in a less senior position at her place of work she might have been caused serious

concern by the letter. On the same day, the Chief Executive replied stating that he was concerned by Ms C's allegation that he had tried to intimidate her. He said that in his letter headed 'School Transport' he had made it quite clear that his correspondence with Ms C was at an end and had invited her to contact the Ombudsman. He said that, accordingly, he would not have engaged in any further correspondence with Ms C on the school bus issue. He said that as he had drawn his correspondence on the school bus issue to a close, the correspondence headed 'Staff Protocols' was an entirely different matter.

(a) The Council's decision to withdraw free school buses was taken without risk assessment, impact analysis or transport assessment

20. In response to my enquiries, the Council asked me to note that they had not withdrawn their free school bus service. They said the policy decision the Council had taken was to reduce an element of subsidy for school travel, which meant that some school children used a 'pay as you go' scheme instead. They explained that prior to the change the Council's policy was to provide free transport to primary school pupils residing more than one mile walking distance from their school and to secondary pupils more than three miles away. They said the policy was considerably more generous than the statutory requirements, which were that free transport should be provided to children up to the age of eight who resided more than two miles away from their local school and should be provided to pupils older than eight years who lived over three miles away.

21. The Council said they changed their policy so that free transport was now only available to all primary school pupils who lived more than two miles away from their local school. The Council said their change in policy had effectively reduced the subsidy for primary pupils, but emphasised that it was an element of subsidy that had been withdrawn and not the bus service itself, which was still available on a 'pay as you go' basis.

22. Section 51 of the Education (Scotland) Act 1980 (the Act) details the statutory requirements placed on education authorities for providing school transport. The Act essentially states that education authorities have a duty to provide free transport only in certain circumstances, normally where a child's nearest school is beyond walking distance. The Council explained that under Section 51 (2C) of the Act the education authority has a duty to consider the safety of pupils when considering whether to make any arrangements for the provision of school transport. The Council stated that that requirement of the

Act would apply if a decision was made regarding whether or not to remove school transport. However, they repeated that they had not removed school transport, but had merely removed an element of subsidy for some primary school pupils and maintained the bus service on a 'pay as you go' basis.

23. The Council told me they had no duty to carry out any safety analysis because their policy decision related to whether or not to charge for a service rather than the removal of a service. They said that the decision was made on 9 February 2006, which allowed them six months to formulate the most appropriate means of implementing the school transport service in August 2006. The Council asserted that the premise that risk analysis, impact analysis or transport assessments were crucial to informed policy decision-making was inaccurate.

(a) Conclusion

24. It is clear Ms C had concerns regarding the withdrawal of free buses for primary school children who lived between one and two miles walking distance of their local school. She believed that there might be potential issues regarding children walking to school and an increase in traffic as a result of more children being driven to school by their parents.

25. However, I am satisfied that Ms C's concerns about the lack of adequate assessments were ill founded. The Council's decision was to remove an element of subsidy from the bus service rather than remove the bus service itself. It did not follow from this decision that patterns of travel would change (for example, more people driving in or more children walking), as the service was still available on the 'pay as you go' scheme. In addition, the Council have told me that they applied an undue hardship provision, which ensured that concessions would apply to avoid undue hardship for parents in difficult financial situations.

26. Having considered the statutory requirements placed on the Council, I am satisfied that they had no duty to carry out the sort of assessments that Ms C believed they should. Consequently, I do not uphold this complaint.

(b) The Council did not adhere to their complaints process

27. The progress of Ms C's complaint has been outlined at paragraphs 6 to 19 above.

28. As explained at paragraph 3, the actions of individual elected members cannot be considered by the Ombudsman and I can only, therefore, consider Ms C's complaint from the time at which it was raised with officers of the Council.

29. In response to my enquiries, the Council told me that Ms C's complaint did not qualify as a complaint under their complaints procedure, because they said she was complaining about the Council's policy. They pointed me to paragraph 6 of their complaints procedure, which states:

'Although it is intended to allow complaints to be dealt with under the corporate complaints procedure there are a number of exceptions, as a result of other processes of review or statute. These are:

Complaints that are simply criticisms or disagreement with Council policy or decisions ...

Complainants contacting the Council with regard to issues noted above should be advised why their complaint cannot be dealt with within the Council's complaint policy and if appropriate, the alternative course of redress open to the complainant.'

30. Leaving aside, for now, the issue of whether Ms C's complaint qualified as a complaint for the purposes of the Council's complaints procedure, I noted that that procedure stated that if a complaint was not acceptable under paragraph 6 the complainant would be informed of that fact and, if necessary, told about alternative routes to redress. I noted that the first response Ms C received from a Council officer, the Head of Administrative Services, did not state that Ms C's complaint was excluded from the Council's complaints procedure. Rather, it stated that Ms C had already had a full response, that the Council had nothing to add and that the Ombudsman could be contacted if she remained dissatisfied. It was only in his fourth email to Ms C that the Head of Administrative Services commented on the Council's complaints procedure and explained that, in his view, Ms C's complaint did not qualify.

31. I consider that, by not clearly explaining to Ms C why her complaint would not be dealt with under their complaints procedure from the start, the Council failed to follow that procedure appropriately. The Council initially made no reference to the fact that Ms C's complaint was not being considered under the Council's complaints procedure, even though it would have been clear to them

from previous correspondence that she wished her complaint to be treated as such.

32. Turning now to the issue of whether Ms C's complaint constituted a challenge to the Council's policy, this was a point of contention between the Council and Ms C. The Council argued that her complaint constituted a disagreement with Council policy; Ms C argued that her complaint was about the process used to reach a policy decision and about service issues such as handling enquiries and complaints. Ms C put her arguments directly to the Council in her emails of 11 and 12 May 2006 (see paragraphs 12 and 13), however, the Council refused to accept the complaint under their complaints procedure.

33. I can understand why the Council would have considered parts of Ms C's complaint to be about the Council's policy decision. However, from her very first communication with the Leader of the Council she made it clear that she wished to complain about process issues rather than simply the decision that had been reached. In her email of 3 April 2006 to the Leader of the Council, she stated 'I also wish this email to progressed [sic] formally as a written complaint against the Council with regard to the robustness of their decision making process with regard to this item'. Subsequently, when the Head of Administrative Services told Ms C that her complaint could not be considered under the complaints procedure, Ms C wrote:

'I am complaining about the robustness of the decision making process within [the Council], e.g. failure to complete full risk assessment, etc., the failure of the Council to comply with their own complaints procedures in terms of timescale/transparency for response (process failure) ... I am not complaining about the decision to withdraw free pay school buses. I, therefore, believe my complaint falls within the scope of the complaint process and is valid.'

34. As explained at paragraphs 12 and 13 above, the Council did not accept the arguments put forward by Ms C.

(b) Conclusion

35. I consider that Ms C had raised legitimate (albeit, ultimately, unfounded) questions regarding the process the Council had followed in reaching their decision to withdraw an element of the subsidy provided for school transport. She made it quite clear that it was the process and the robustness of the

decision-making she was complaining about rather than the decision itself. I acknowledge that part of the complaint, and the possible impetus for it, was disagreement with the decision reached by the Council. However, other parts of her complaint concerned issues that were not excluded from the complaints procedure and I consider that the Council should have considered those under the terms of that procedure. In my view, their failure to do so constituted maladministration.

36. Notwithstanding my concerns at paragraph 35 above, I consider that the Council failed to adequately explain to Ms C that her complaint would not be dealt with under their complaints procedure. It is important that complainants are given correct information straightaway if it is decided that a complaint made to the formal complaints procedure cannot be considered within that procedure. I am of the view that the Council could have been in no doubt that Ms C wanted her complaint to be dealt with as a complaint under the complaints procedure. I, therefore, consider that they should have followed the terms of paragraph 6 of the procedure and told Ms C that they would not accept the complaint and explained the reasons why. That it took four emails from the Council's Head of Administrative Services before that was done was unacceptable.

37. In commenting on a draft of this report, the Council maintained that Ms C's complaint was against a political decision and that it was not appropriate to consider such a complaint under their complaints procedure. They said that their decision had been taken as part of a political process rather than an administrative process. They said the process followed in reaching the decision to withdraw an element of subsidy from the school buses was a political one representing a legitimate exercise of the Council's powers and functions. They said the decision was a proper one for the Council to take and that it was not open to Ms C, under the guise of complaining about the process, to challenge the robustness of the decision through the Council's complaints procedure. The Council said that, based on a careful and proper assessment of the content of Ms C's complaint, they concluded that the complaint did not qualify to be considered under the terms of their complaints procedure because it constituted a complaint about a Council decision notwithstanding Ms C's assertion to the contrary.

38. I note the distinction drawn by the Council between political decisions and administrative processes. However, as mentioned at paragraph 35 above, only part of Ms C's complaint involved a challenge to the decision to withdraw an

element of subsidy from the school buses. The other part of her complaint questioned whether appropriate processes had been followed in the lead up to the decision being taken. In my view, such a complaint is acceptable under the Council's complaints procedure. The Council state that Ms C was effectively complaining about the decision, 'under the guise of complaining about the process'. I consider that, in such cases, complaints must be taken at face-value and that if a complainant states clearly that they have concerns about procedural issues those concerns should be investigated and responded to under the appropriate complaints procedure. The impetus for many complaints is likely to be disagreement with a decision; indeed, most members of the public are unlikely to complain about the way a decision was reached if they are happy with the decision itself. I consider that, in such situations, making assumptions about a person's purpose and motivation in raising a complaint is not appropriate, particularly when, as in this case, Ms C stated explicitly what she wished to complain about and where she felt correct processes had not been followed.

39. The Council also questioned, still commenting on a draft of this report, what hardship or injustice Ms C had suffered as a result of the Council's actions. The Council pointed out that from the time at which Ms C wrote to the Leader of the Council to receiving a response from the Chief Executive only 28 working days had elapsed. The Council said that, in effect, a three stage process had been followed in dealing with Ms C's complaint and that a final response had been provided much sooner than the 45 working days outlined in the complaints procedure. They said that Ms C was provided with an explanation regarding why her complaint would not be accepted under the complaints procedure within 24 hours of Ms C entering into correspondence with the Head of Administrative Services. They pointed out that within five days from entering into correspondence with the Head of Administrative Services Ms C received a full response from the Chief Executive. They said that would be considered as providing a good service by any standard. The Council acknowledged that, ideally, Ms C should have been told immediately that her complaint was not acceptable under the complaints procedure, however, they questioned whether it was appropriate to imply that there had been a substantial time lapse in providing an explanation to Ms C and, thereby, that there had been maladministration in the Council's actions.

40. While I acknowledge that Ms C did, in effect, go through a three stage process and did receive a response from the Chief Executive, I consider that

there was injustice to Ms C in being denied access to a complaints procedure which she was entitled to invoke. I also consider that there was injustice in the fact that, in my view, it was only due to Ms C's persistence that Ms C managed to get her complaint heard and escalated. Had Ms C not continued to ask questions and challenge the Council, she would not have received a three stage response or succeeded in escalating her complaint to the Chief Executive. Regardless of the timescales quoted by the Council, my view is that it should not have taken repeated emails from Ms C to get either an answer regarding the reasons her complaint would not be considered under the complaints procedure or to get a response under the terms of that procedure. Therefore, while I note the Council's comments, I do not accept them.

41. In light of my concerns at paragraph 35, 36, 38 and 40, I uphold this point of complaint.

(b) Recommendation

42. The Ombudsman recommends that the Council:

- (i) apologise to Ms C for failing to accept her complaint under their complaints procedure; and
- (ii) put in place measures to ensure that, in future, complainants are given accurate information straightaway when their complaints will not be accepted under paragraph 6 of the Council's complaints procedure.

(c) The Council's conduct in communicating with Ms C was unprofessional and inappropriate

43. In response to my enquiries, the Council stated that they had reviewed their correspondence with Ms C and felt that her complaint was handled in a professional manner.

(c) Conclusion

44. I do not uphold Ms C's complaint that other correspondence she had with the Council was inappropriate or unprofessional. Although I have criticised the Council for failing to accept Ms C's complaint under their complaints procedure, I did not find that their correspondence was otherwise inappropriate or unprofessional.

(d) A letter sent from the Chief Executive to Ms C on 15 May 2006, headed 'Staff Protocols', was inappropriate and intimidating

45. The Council told me they could detect nothing in the tone or content of the Chief Executive's correspondence with Ms C which could be construed as unprofessional or inappropriate. With regard to the letter from the Chief Executive headed 'Staff Protocols', the Council said that the Chief Executive had explained to Ms C that he had not been trying to intimidate her (see paragraph 19). The Council said that the Chief Executive had concluded his correspondence with Ms C regarding her complaint and had invited her to contact the Ombudsman. The Council disagreed that the letter was intimidating or inappropriate. The Council explained that the Chief Executive was surprised at the divergent practices between the Council and Ms C's place of work and the apparently more relaxed policy of Ms C's employer. The Council said that that was what had motivated his letter to Ms C. They said that at the time the Chief Executive had not sought information of that type before, but that he had recently obtained such information from all the local authorities in Scotland. It should be noted for the record that Ms C was employed in the private rather than public sector.

(d) Conclusion

46. I note the arguments put forward by the Council. I accept that the Chief Executive may have been curious about the policies in place at Ms C's place of work and may have wanted to find out more about them. However, if the Chief Executive had wanted such information there would have been more appropriate ways of obtaining it. Indeed, I consider that contacting Ms C directly, on the same day that he had written under separate cover about her complaint, was not appropriate. Regardless of the Chief Executive's motivation in requesting details about Ms C's work policies, he should have had regard to how receiving the letter headed 'Staff Protocols' would have come across to Ms C. She had been pursuing her complaint with the Council for some time and with some difficulty, only to subsequently receive a letter that referred to Ms C's use of email 'at many and varying times within office hours'. In my view, the tone and language of the email could be seen as intimidating, and perceived as implying that Ms C had inappropriately been conducting private business at work. The original letter did not explain why the Chief Executive wanted the information and it would have been reasonable from its tone for Ms C to assume that he intended to inform her employer about her use of email at work. Ms C told me that her use of email was in accord with her company's policy, and she had, therefore, not been worried, but she was very concerned that an

employee in a less senior position might have been very intimidated by such a communication directly from the Chief Executive of a local authority.

47. In commenting on a draft of this report, the Council said that intimidation implied an attempt to influence someone's conduct and that, because Ms C had been told she could go to the Ombudsman it was not clear what the alleged intimidation was supposed to achieve. In addition, the Council stated that the scenario where a less senior official at Ms C's work might have felt intimidated was purely hypothetical and glossed over Ms C's employer's responsibility to ensure that their own staff understood their policy on use of the internet within office hours.

48. I note the Council's comments, but consider that a member of the public's work internet and email policy should not normally be the concern of the Chief Executive of a Local Authority. Asking for such information in this case and in the manner described was inappropriate. I note that the Council question what effect the intimidation was supposed to have, given that Ms C had been told about the Ombudsman and it was clear that the Council did not wish to stop her pursuing a complaint. I consider that the intended effect of the letter is not at issue here; the issue is the letter's actual impact and how it would have come across to the person receiving it. As explained above, I consider that receiving a letter from the Chief Executive of a Local Authority requesting details of a work policy without explaining why that information was being requested, could easily lead a person to fear that their employer might be informed. That could be intimidating and, in my view, the overall tone of the letter does come across as being intimidating. Finally, I note the Council's comment regarding Ms C's employer's responsibility with regard to their staff, but as with their internet and email policy, I do not see how this matter concerns the Council.

49. In light of my concerns, I conclude that, regardless of its intent, the Chief Executive's letter headed 'Staff Protocols' was inappropriate and intimidating. Consequently, I uphold the complaint.

(d) Recommendation

50. I recommend that the Council apologise to Ms C for sending her an inappropriate and intimidating letter.

20 June 2007

Explanation of abbreviations used

Ms C

The Complainant

The Council

East Renfrewshire Council

The Act

Education (Scotland) Act 1980

List of legislation and policies considered

Education (Scotland) Act 1980

East Renfrewshire Council's Corporate Complaints, Comments and Compliments Policy