

**Case 201305794: Glasgow City Council**

**Summary of Investigation**

**Category**

Local government: Education; complaints handling (including appeals procedures)

**Overview**

The complainant (Mrs C) said that Glasgow City Council (the Council) had not adequately investigated her complaint, when she complained that the secondary school her daughter (Miss A) attended had failed to meet Miss A's additional support needs.

**Specific complaint and conclusion**

The complaint which has been investigated is that the Council did not respond adequately to Mrs C's complaints (*upheld*).

**Redress and recommendations**

	<i>Completion date</i>
The Ombudsman recommends that the Council:	
(i) issue a written apology to Mrs C and Miss A for the failings identified in this investigation;	22 October 2014
(ii) review the Complaints Handling Procedure (Appendix Two: What is not a complaint) to ensure that complaints about a school failing to meet additional support needs are appropriately signposted to the Additional Support for Learning framework, rather than considered under the Complaints Handling Procedure;	17 December 2014
(iii) remind all relevant staff of the alternative dispute resolution avenue available for complaints about schools failing to meet additional support needs;	22 October 2014
(iv) remind all relevant staff of the Council's Complaints Handling Procedure on 'what to do when you receive a complaint for investigation', which includes the recommendation to clarify the	22 October 2014

complaint and the scope of the investigation with the complainant at an early stage;

- (v) review processes and templates for stage two investigations, to ensure that staff are appropriately prompted to consider: what the issues in dispute are; whether there are disputes about facts; and what evidence is required to resolve these; and

17 December 2014

- (vi) review processes for capturing and reporting information from complaints, including: the root cause of the complaint; and possible action to reduce the risk of recurrence (consideration should be given to these issues regardless of whether a complaint is upheld).

17 December 2014

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

## **Main Investigation Report**

### **Introduction**

1. On 7 March 2014, my office received a complaint from a member of the public (Mrs C) against Glasgow City Council (the Council). She complained that the secondary school (the School) her daughter (Miss A) attended had failed to provide adequate support for Miss A's additional support needs. Mrs C also complained that, when she made a complaint to the Council about this, the Council failed to investigate properly. Mrs C was concerned that the failure to provide adequate support for Miss A was affecting Miss A's on-going study.

2. The complaint from Mrs C which I have investigated is that the Council did not respond adequately to Mrs C's complaints.

3. Mrs C also complained that the Council failed to ensure that the School took reasonable steps to meet Miss A's additional support needs. However, my complaints reviewer advised Mrs C that we could not investigate this complaint, as Mrs C had an alternative avenue of appeal under the Education (Additional Support for Learning) (Scotland) Act 2004, which included access to independent mediation and adjudication, and an appeal to the Additional Support Needs Tribunals for Scotland. Under section 7(8) of the Scottish Public Services Ombudsman Act 2002, my office may not investigate a complaint where the person aggrieved has a right of appeal to a tribunal which they might reasonably be expected to use.

### **Investigation**

4. My complaints reviewer reviewed the documentation provided by Mrs C and by the Council, and made further enquiries of the Council. My complaints reviewer also considered the Council's Complaints Handling Procedure (the Procedure) and 'Every Child is Included' Policy (the Policy). Relevant excerpts from these policies are included at Annex 3.

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

**Complaint: That the Council did not respond adequately to Mrs C's complaints**

6. In February 2014, Mrs C complained to the Council about the School's treatment of her daughter, Miss A, who has both dyslexia and other conditions requiring additional support. Mrs C complained that the School had not given Miss A any help since the beginning of that school year, and that the School had said they had no record of her dyslexia, even though this had been arranged through the primary school psychologist and Mrs C had given written evidence of this to the School. Mrs C also complained that she had been going to the School since the start of the school year to enquire about this, but had received no information. Mrs C said that a few months into the school year, she was told that pupils in Miss A's year do not require additional support at all, as they should be able to do the classroom work and copy from the board without help.

7. Mrs C said that she had asked for teachers' class notes to be provided to help Miss A, but nothing had been done about this, and when Mrs C asked if Miss A could record the lessons this was refused. Mrs C said that Miss A was sitting exams, including national exams, monthly, without a scribe to assist her. Mrs C said she felt the School had not taken her issue seriously, and that 'time was running out' for Miss A to get the support she was entitled to.

8. The Council responded in a letter dated 27 February 2014. The Council told Mrs C that the School had not received any information about Miss A's dyslexia at the time of transition from primary school, and this had been explained to Mrs C. The Council noted that, at a later consultation meeting, it was decided that Miss A had dyslexia and a copy of the Pupil Support Notes for Miss A was sent to Mrs C after this meeting, which detailed the support which was being given to Miss A. The Council assured Mrs C that Miss A had had, and would continue to have, full support when sitting assessments for national exams, including a separate room, a reader and a scribe.

9. The Council also included some information on the School's handling of Mrs C's concerns about Miss A's maths class. In relation to Mrs C's request for Miss A to record lessons, the Council said that the School was correct in refusing this, as it would breach the Data Protection Act. The Council noted that Mrs C had been offered a meeting with school staff to address any inconsistencies in information, but she chose not to meet with staff. Mrs C was also asked to put all her concerns in writing but the School had not received any

written communication to date. Finally, the Council commented that in previous years, Mrs C had attended review meetings and said she was pleased with the support Miss A received.

10. Mrs C was dissatisfied with the Council's response, and brought her complaint to my office on 7 March 2014.

11. Mrs C complained that she was very dissatisfied with the Council's handling of her complaint. Mrs C was unhappy that the Council had accepted the School's claim that there was no proof of Miss A's dyslexia, as she had had three years of conversation with the School about additional support for both dyslexia and Miss A's other support needs. She noted that a new additional support teacher had recently taken over, who was not able to refer back to the support Miss A had received in previous terms, which included dyslexia help such as a text isolator, extra reading lessons and a supported learning teacher. Mrs C also gave my complaints reviewer a copy of minutes from a meeting she had with the educational psychologist and deputy head teacher from Miss A's primary school, in which it was agreed that Miss A had dyslexia (with no further testing required) and that this information would be passed on to the high school both by the primary school (in a planned transition meeting) and by the educational psychologist (who said she would not take on Miss A as a new case, but would pass on her recommendation about Miss A to the secondary school).

12. Mrs C felt that the Council's response that Miss A had had full support in sitting national exams was wrong, as it had taken months for any support to be provided in the current school year. Miss A had had to sit exams, including national exams, without scribes, except in one subject, where the teacher had offered to scribe for her. Although this was useful, it was also embarrassing for Miss A. Mrs C said that on occasion Miss A still had to ask in front of the class for a scribe, when presented with an exam, which is very stressful for her. Although Miss A is supposed to have class notes printed to take home, Mrs C said that in some classes this was not always happening.

13. Mrs C also felt that the Council accepted the School's version of events without getting all the facts, because they had commented on an issue she had raised with the School about Miss A's maths, even though this was not something Mrs C included in her complaint to the Council (as she felt there were more important issues).

14. Mrs C noted that the Council had referred to a specific conversation between her and the pastoral care teacher, when this was only one of a series of conversations she had with the School since the beginning of the school year. Additionally, the Council gave the wrong date for the meeting Mrs C had with the School, which she felt showed that they were relying on inaccurate records. In relation to the School's claim that she chose not to meet with staff, Mrs C thought this referred to her husband's failure to attend an appointment he had made with the School to discuss Miss A's maths, but which the School had cancelled, instead sending Mr and Mrs C a letter that implied that all contact should be in writing.

15. Mrs C was also unhappy that the Council agreed with the School that it was not possible for Miss A to record lessons, as this would breach the Data Protection Act.

16. While the Council said that Miss A was provided with a scribe for exams, Mrs C gave my office a copy of the Pupil Support Notes for Miss A, and explained that she had had to follow this up with the School, because the notes did not include provision for a scribe.

17. Finally, Mrs C was unhappy that the Council commented that she had had no complaints about the support given during previous years. Mrs C explained that this was the point of her complaint: she felt Miss A had had good support in previous years, but this had all stopped since the beginning of the current year.

18. In response to my complaints reviewer's enquiries, the Council provided copies of documentation, but did not comment further on Mrs C's complaint. The records provided included a number of progress summaries relating to previous school years, the Pupil Support Notes which were sent to Mrs C, and an undated and untitled document which stated that Miss A had difficulty with language and had received group and individual support since the third year of primary, and now had an Additional Support Plan (ASP). The document stated that Miss A had been screened for dyslexia, which indicated that she may be dyslexic, but had not been tested by an educational psychologist. The Council also provided an ASP dated for the previous school year.

19. When my complaints reviewer questioned the Council whether Mrs C had been provided with information about the dispute resolution process available

under the Policy, the Council said that she had not, as her complaint was handled under the Procedure. The Council confirmed that Mrs C would be able to access independent adjudication or mediation services under the Policy.

20. My complaints reviewer also sought further information from the Council on some of the issues Mrs C had raised. In relation to my complaints reviewer's request for copies of the transition information held by the School, including records from the planned transition meeting with the primary school, the Council said the School had advised that there had been no information regarding dyslexia from the primary, so there was no meeting regarding this. In relation to the information Mrs C was given that recording of school lessons would breach the Data Protection Act, the Council said that, for lessons to be recorded, every pupil and every teacher present would have to sign a permission form. The School would have found it very difficult to monitor this, given factors such as new pupils and other pupils joining the class for a particular subject. In relation to the School's claim that they offered a meeting with all staff involved, which Mrs C refused, the Council provided copies of the pastoral notes for Miss A, which included a note from a telephone call the pastoral care teacher made to Mrs C on 24 January 2014. In this call, he offered to arrange a meeting with all of the different teachers involved, but Mrs C said she would have felt as if they were 'ganging up' on her and asked if she could bring a lawyer. It is unclear from the notes whether the pastoral care teacher refused this request. However, the note also stated that the pastoral care teacher then asked Mrs C to put down all her concerns in writing and the School would do its best to work with her in order to rectify any issues.

### *Conclusion*

21. The basis upon which my office makes its decisions is 'reasonableness', that is, were the actions taken, or not taken, reasonable in the circumstances and in light of the information available to those involved at the time. What I considered in this case was whether the Council acted reasonably, and in line with their policies, in investigating and responding to Mrs C's complaint about the School.

22. When the Council first received Mrs C's complaint, it was decided to deal with the complaint under the Procedure rather than under the Policy. I consider that this was inappropriate, as the Policy set out specific procedures for resolving disputes about additional support under the Additional Support for Learning framework, and the Procedure stated that, where separate specific

review and appeal procedures exist, complainants should be directed to the relevant procedure. It was clear from Mrs C's letter of complaint that her concerns about additional support for her daughter related to on-going problems, which would more appropriately have been addressed under the Additional Support for Learning framework. I am critical of the Council's failure to deal with Mrs C's complaint under this framework. I am also critical of the Council's failure to notify Mrs C of the review and appeal procedures available. I note that this failure prevented Mrs C from pursuing her concerns in the appropriate avenue for some time, and I appreciate Mrs C's concern that this delay may have impacted on Miss A's on-going study. The Council's failure to inform Mrs C of the relevant procedures is of particular concern, as the officer who signed the complaint response letter was also the officer responsible for dealing with requests for dispute resolution under the Additional Support for Learning framework, who should reasonably have identified that the complaint raised issues which would be more appropriate to consider under that framework.

23. I have also concluded that the Council's investigation of Mrs C's complaint did not comply with their Procedure, which required staff to establish all the facts and give the complainant a full and objective response.

24. Mrs C's complaint was not dated, but it appeared from the Council's correspondence that it was received on or before 4 February 2014. The Council responded to Mrs C's complaint on 27 February 2014, which appeared to be within the 20 working day timeframe for a final response. However, there was no evidence that the Council contacted Mrs C to acknowledge her complaint within three working days, as required by the Procedure, and I am critical of this. There was also no evidence that the Council took any steps to clarify Mrs C's complaint, or to discuss with her what the Council's investigation would do and what outcome she was seeking. I consider that this was a failing, as Mrs C's complaint raised issues which the Council should reasonably have sought to explore (for example, by seeking specific dates and examples of examinations in which Miss A did not receive support, and by asking Mrs C about the 'written evidence' she said she had given the School about Miss A's dyslexia testing). I also note that early contact with Mrs C may have helped the Council to properly understand her concerns and identify the most appropriate procedure for addressing them.



25. I also consider that the Council failed to establish key facts in the investigation, which Mrs C and the School disagreed on. Instead the Council appears to have accepted the School's version of events, despite a lack of supporting evidence. For example, the School claimed that Miss A was provided with a separate room, a reader and a scribe for her national exams, and the Council accepted this. However, the Pupil Support Notes and Additional Support Plan provided by the School do not include any mention of a scribe or a separate room. The Council also relied on the School's advice and the Pupil Support Notes as proof that Miss A was being given printed class notes. Given that Mrs C had specifically stated that class notes were not being provided, I consider that the Council should have explored this issue further (for example, by asking Mrs C to clarify her concerns, or by checking whether teachers for all subjects were providing these or asking for copies of class notes recently provided). The Council also relied on the School's advice that Mrs C had refused to meet with them, although the pastoral care notes provided by the School do not show that Mrs C declined the proposed meeting, but rather that she asked whether she could bring a lawyer (and at this point the invitation to meet appeared to have been changed to a request to put everything in writing). The Council did not appear to have considered whether it was appropriate for the School to decline Mrs C's request to bring a lawyer to the meeting, nor did they investigate further why the meeting did not go ahead.

26. The Council also accepted the School's claim that no transitional information had been provided by the primary school about Miss A's dyslexia. Mrs C had specifically disputed this in her complaint and referred to written evidence, however, the Council did not request a copy of this evidence. The Council also did not seek to test the School's claims by requesting a copy of the transitional information held by the School, or by contacting the primary school to check whether information about Miss A's dyslexia had been provided. This is of particular concern, as the Policy required schools to have clear plans in place to support the transition of children with additional support needs between primary and secondary school. In view of this, the Council should reasonably have been concerned about the apparent breach of this policy by the primary and/or high school. Mrs C has given my complaints reviewer a copy of minutes from a pre-transitional meeting with the primary school, which indicated that there was a clear intention to pass information on Miss A's dyslexia to the secondary school. In the circumstances, I am strongly critical of the Council for failing to explore these issues, and for accepting the School's information on this point without documentary evidence.

27. Mrs C also complained that the Council agreed with the School that recording of class lessons would breach the Data Protection Act. On this point, I am satisfied that the Council received an explanation from the School, although I am critical of the Council for failing to pass on this explanation to Mrs C.

28. I am also critical of the Council's letter responding to Mrs C's complaint, which reflects the flaws in the Council's investigation. The letter appears to have been drafted entirely from the investigating officer's notes from the meeting with the School, without reference to Mrs C's original complaint. As a result of this approach, the letter included a formal response to Mrs C's concerns about Miss A's maths, although this was not something she had raised in her complaint to the Council. I consider that it was inappropriate for the Council to raise this issue, as it was not something Mrs C had complained about, and I am strongly critical of the Council for providing a response on the issue without having sought Mrs C's comments. I also consider that it was inappropriate for the Council to comment that Mrs C had previously expressed satisfaction with the level of support provided by the School. This comment showed a lack of understanding of Mrs C's complaint, which stated that she was unhappy with the level of support provided since the beginning of that school year.

29. Finally, I consider that the Council failed to comply with the requirements of the Procedure regarding learning from complaints. The Procedure requires the Council to use complaints data to identify the root cause of complaints, and to take action to reduce the risk of recurrence. While the Council did not uphold Mrs C's complaint, this was on the basis that the primary school had not passed on important information about Miss A's dyslexia to the secondary school. This should have been identified as a 'root cause' of Mrs C's complaint, and an area of potential improvement for the schools involved, as the Policy sets out specific requirements for schools regarding transitional arrangements. However, the Council does not appear to have identified any learning points from Mrs C's complaint.

30. For the reasons set out above, I have concluded that the Council did not act reasonably or in line with their policies in responding to Mrs C's complaint. Overall, the Council's investigation of her complaint appeared to have been superficial and lacking in objectivity.

31. Therefore, I uphold the complaint.

32. When Mrs C brought her complaint to my office, she said that the outcome she was seeking was for the Council to recognise that they had failed to provide appropriate additional support for Miss A, and to ensure that Miss A received printed class work to enable her to study at home. These outcomes were both related to Mrs C's complaint about the Council's failure to ensure that the School took reasonable steps to meet Miss A's additional support needs. As my complaints reviewer explained to Mrs C, we were not able to continue our investigation of this part of Mrs C's complaint, because there was an alternative avenue of appeal available which Mrs C could reasonably be expected to use. As we have not investigated this part of Mrs C's complaint, I am not able to make recommendations about the outcomes she sought. However, I have recommended that the Council apologise to Mrs C for the failings identified in my investigation and I have also made a number of recommendations to address these failings.

*Recommendations*

	<i>Completion date</i>
33. I recommend that the Council:	
(i) issue a written apology to Mrs C and Miss A for the failings identified in this investigation;	22 October 2014
(ii) review the Complaints Handling Procedure (Appendix Two: What is not a complaint) to ensure that complaints about a school failing to meet additional support needs are appropriately signposted to the Additional Support for Learning framework, rather than considered under the Complaints Handling Procedure;	17 December 2014
(iii) remind all relevant staff of the alternative dispute resolution avenue available for complaints about schools failing to meet additional support needs;	22 October 2014
(iv) remind all relevant staff of the Council's Complaints Handling Procedure on 'what to do when you receive a complaint for investigation', which includes the recommendation to clarify the complaint and the scope of the investigation with the complainant at an early stage;	22 October 2014

- (v) review processes and templates for stage two investigations, to ensure that staff are appropriately prompted to consider: what the issues in dispute are; whether there are disputes about facts; and what evidence is required to resolve these; and 17 December 2014
- (vi) review processes for capturing and reporting information from complaints, including: the root cause of the complaint; and possible action to reduce the risk of recurrence (consideration should be given to these issues regardless of whether a complaint is upheld). 17 December 2014

34. The Council have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the Council notify him when the recommendations have been implemented.

**Explanation of abbreviations used**

Mrs C	the complainant
The Council	Glasgow City Council
The School	the school attended by Miss A
Miss A	Mrs C's daughter
The Procedure	Glasgow City Council, Our Complaints Handling Procedure (Information for Staff)
The Policy	Glasgow City Council, 'Every Child is Included' Policy
ASP	Additional Support Plan

**List of legislation and policies considered**

Glasgow City Council, Our Complaints Handling Procedure (Information for Staff)

Glasgow City Council, 'Every Child is Included' Policy

Education (Additional Support for Learning) (Scotland) Act 2004

### Excerpts from policies considered

The Council's Complaints Handling Procedure sets out how complaints should be identified and dealt with by staff. In relation to 'what is not a complaint', the Complaint Handling Procedure says:

'A customer may also be concerned about various council decisions. These decisions may have their own specific review or appeal procedures, and, where appropriate, customers must be directed to the relevant procedure.'

In relation to investigating formal (stage two) complaints, the Council's Complaint Handling Procedure says:

'... An investigation aims to establish all the facts relevant to the points made in the complaint, and to give the customer a full, objective and proportionate response that represents our final position.

...

What to do when you receive a complaint for investigation

It is important to be clear from the start of the investigation stage exactly what you are investigating, and to ensure that both the customer and the Service understand the investigation's scope.

It may be helpful to discuss and confirm these points with the customer at the outset, to establish why they are dissatisfied, and whether the outcome they are looking for sounds realistic.

...

Where possible you should also clarify what additional information you will need to investigate the complaint. The customer may need to provide more evidence to help us reach a decision.

Timelines

The following deadlines are appropriate to cases at the investigation stage:

- complaints must be acknowledged within three working days

...

Closing the complaint at the investigation stage

You must let the customer know the outcome of the investigation... Our response to the complaint must address all areas that we are responsible for and explain the reasons for our decision.'

In relation to learning from complaints, the Complaints Handling Procedure says:

'Complaints provide valuable customer feedback. One of the aims of the complaints handling procedure is to identify opportunities to improve services across the council.

...

Senior management will review the information gathered from complaints regularly and consider whether our services could be improved or internal policies and procedures updated. As a minimum we will:

- use complaints data to identify the root cause of complaints
- take action to reduce the risk of recurrence...'

The Council's 'Every Child is Included' Policy sets out how the Council will provide support for children with additional support needs, in line with the Education (Additional Support for Learning) (Scotland) Act 2004. In relation to resolving disagreements, the Policy notes:

'When disagreements relating to additional support needs cannot be resolved by discussion, the Act makes provision for both mediation and for independent external adjudication (Dispute Resolution). It also provides parents/carers and young people with the right to refer particular matters to the Additional Support Needs Tribunals for Scotland (the Tribunal).'

In relation to transitions between educational institutions, the Council's 'Every Child is Included' Policy says:

'Education services will pay particular attention to meeting the needs of children and young people across transitions ... Heads of Establishment must have in place clear plans to support the transition of a child or young person with additional support needs into or out of their establishments ... For children and young people moving from primary to secondary school, transition arrangements should start not less than one year ahead of the move.'