

Scottish Parliament Region: South of Scotland

Case 200502010: South Ayrshire Council

Summary of Investigation

Category

Local government: Education; Property Issues

Overview

The complainant (Mr C) alleged that South Ayrshire Council (the Council) had failed to take steps to curb anti-social behaviour emanating from youngsters congregating in a school playground next to his home or to take action in respect of specific measures he suggested.

Specific complaints and conclusions

The complaints which have been investigated are that the Council:

- (a) had not taken positive steps to curb anti-social behaviour affecting him (*not upheld*); and
- (b) had failed to act in a timely matter on specific measures suggested by Mr C (*not upheld*).

Redress and recommendation

The Ombudsman has no recommendation to make. It was noted, however, that the Primary School itself had installed Close Circuit Television at the front of its premises prior to 31 March 2006 and that the Council were prepared on the basis of shared costs to heighten a section of wall.

Main Investigation Report

Introduction

1. The complainant (Mr C) is the owner of a former schoolhouse which shares a boundary with a local primary school (the Primary School) of which Mr C was Head Teacher for 22 years until his retirement in 1997. In more recent times Mr C has suffered from anti-social behaviour from young people frequenting the Primary School playground. He had corresponded with the South Ayrshire Council (the Council) on the matter.

2. The complaint from Mr C which I investigated are that the Council:

- (a) had not taken positive steps to curb anti-social behaviour affecting him; and
- (b) had failed to act in a timely matter on specific measures suggested by Mr C.

Investigation

3. The investigation was based on information supplied by Mr C and the Council's response to my enquiry. Mr C was given the opportunity to comment on the Council's response. Both he and the Council have had the opportunity to comment on a draft of this report. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked.

4. Mr C has resided in a house adjacent to the Primary School since the time of his appointment as Head Teacher in August 1975. The Primary School playground is lit by security lights during hours of darkness and provides a short cut between two roads. Since the playground has no locked gates, the public have unrestricted access. Mr C believes that in the years since his retirement, he has become the target of misbehaviour.

5. In early 2005, after snowballs had been thrown from the school playground at his lounge windows, Mr C spoke to the Practice Manager, Department of Environment and Infrastructure at the Council (Officer 1) to ask if he would investigate the possibility of building up a low section of the boundary wall of the school where it met the wall bordering the pavement to the road. In the absence of a wall of sufficient height (the current wall is 95 cm above the height of the playground) people have an elevated view into his house and also a convenient

perch to sit on while so doing. The existing wall also provides no obstruction to missiles launched from the raised platform of the playground.

6. Officer 1 made enquiries, but was unable to identify a source of finance for the work involved and could not identify any likely source of future funding. He confirmed the position to Mr C in a letter of 2 June 2005.

7. Following a further incident when a missile was thrown at his lounge window, Mr C wrote to the Chief Executive on 10 July 2005. His letter outlined two particular measures which Mr C considered could reduce anti-social behaviour, namely, the installation of Closed Circuit Television (CCTV) Cameras monitoring behaviour in the playground and the raising of the section of the boundary wall (see paragraph 5).

8. As a consequence of this letter, the Council's Anti-Social Behaviour Team (the Team) visited Mr C at his home on 12 July 2005 and proceeded to monitor the situation for the following month.

9. Mr C's letter was acknowledged on 14 July 2005 by a Customer Services Officer in the Chief Executive's Department (Officer 2) who stated that a copy of his correspondence had been passed to the Head of Service, Educational Resources (Officer 3).

10. On 28 July 2005, a co-ordinator (Officer 4) in Educational Resources responded to Mr C stating that the Council's funds to improve school security were very limited and that current resources were focussed in the first instance on the installation and renewal of burglar alarms to meet current insurance requirements. Officer 4 stated that it was the Council's intention to install CCTV cameras in the schools with the highest levels of vandalism as resources became available and that the Primary School would be considered as part of a prioritised list.

11. On 7 August 2005, a quiet evening at home with friends was spoiled by a group of teenage boys in the school playground whose demeanour suggested there might be a risk to Mr C's guests' cars parked in his driveway. Mr C went out to speak to the boys who refused to move on. They protested they had done nothing wrong. Mr C said he would telephone the police. The boys moved on but

subsequently returned and threw something over the wall. Subsequently Mr C and the janitor found graffiti directed at him personally scratched in the school gatepost and next to one of the entrances to the school. Mr C wrote to his local councillor on 10 August 2005, and copied to him his earlier letter of 10 July 2005 to the Chief Executive, and the response of 28 July 2005. Mr C sought the councillor's thoughts on the situation with the Council and the inability of the police to curb the anti-social behaviour disturbing him and other neighbours. Mr C emphasised that he found the school a good neighbour during its hours of opening and that he was happy to have it next door. Mr C copied this letter to the Chief Executive also on 10 August 2005.

12. The letter to the Chief Executive of 10 August 2005 was acknowledged by Officer 2 on 19 August 2005. In the absence of the Chief Executive, the Council's Director of Education, Culture and Lifelong Learning responded on 29 August 2005. In that reply he regarded the matter of anti-social behaviour as an area where the Council had no obvious locus. The police were the appropriate agency and he noted that Mr C had already contacted them.

13. Unhappy with the replies he had received to his letters of 10 July and 10 August, Mr C wrote on 6 September 2005, invoked the Council's complaints procedure, and asked that his correspondence be reviewed. Officer 2 acknowledged receipt and offered a meeting with Mr C. Prior to this meeting being held at Mr C's home, there was a further incident when eggs were thrown at Mr C's lounge window. Mr C had had to call the police for the nineteenth time in 2005. By the time they arrived, the culprits had disappeared leaving no clue as to their identity.

14. On 18 October 2005 the Chief Executive responded to Mr C's letter of 6 September 2005:

'It is clear from your correspondence, including your most recent letter of 1 October 2005, and your discussion with [Officer 2] that you feel there is an on-going problem of anti-social behaviour directed towards you and your property by some youngsters in (the village) out-with school hours.

My enquiries indicated that there is a passageway between (the two roads)

which makes it difficult for the Council to prevent access to an area of playground adjacent to your house. Although you believe that building up the wall for the last 2-3 metres would materially improve things for you, I regret to advise however that this cannot be regarded as a high priority for school spending in the foreseeable future. In addition, I also understand that there would be a visibility issue for school transport if the wall were extended as you have requested. On a positive note however, I know that [Officer 4] has confirmed the Department's intentions in relation to the provision of burglar alarms and closed circuit television and would endorse these.

In his letter to you (of 29 August 2005) the Director of Education, Culture and Lifelong Learning expressed the view that the Education Department had no direct locus in dealing with the behaviour of the unruly element involved. Whilst this is the educational position I am of the view however that the Council's anti-social behaviour team and the Community Policeman should be your point of contact to assist you in dealing with this problem. Accordingly I have asked [the] Community Safety Manager, to arrange further contact with you to explore other ways in which they may be able to help.

Although you are confronted with what seems to be an intermittent problem, it is, nevertheless, the case that it is an unwelcome intrusion into your daily life. I hope that by working together it will be possible to effect a beneficial change that will improve matters for you.'

15. The Chief Executive informed Mr C of his ability to refer the matter to the Ombudsman if he was not satisfied. On 29 November 2005, Mr C complained to this office.

16. In his complaint, Mr C considered that the Council had failed to accept that they owed a duty of care to him and his neighbours to take steps to ensure that anti-social behaviour in their premises at the Primary School did not give rise to nuisance. He considered the situation could be resolved by the installation of CCTV cameras and monitors; by raising the low section of boundary wall between the school and his home; and thirdly by removing the narrow strip of playground between the section of wall and the steps leading out of the school and on to the main road.

17. Enquiries were made of the Council on 26 January 2006 and 13 April 2006 and they responded in letters from the Council's Depute Chief Executive on 7 March 2006 and 1 June 2006.

The Council's response

18. The Council's initial reply provided additional information and responded to the two heads of complaint. Mr C had bought the schoolhouse in December 1987 from a previous authority. Mr C's title deeds are silent on the maintenance of boundary walls. The stepped wall separating the playground and the properties of Mr C and two neighbours is approximately 50 metres long. Following a short 3.1 metre front section at a height of 95 cm it rises to 1.58 metres and then to 1.95 metres to the rear.

Mr C's comments

19. In a letter of 21 March 2006, Mr C commented that while the Council had cited health and safety as a reason for not raising the lowest section of wall, they had sanctioned the erection of a 2.1 metre high steel cased cupboard for gas meters (now covered in graffiti) immediately adjoining the lowest section which formed an even higher perch to look over his property. Mr C did not consider that the wall was his joint responsibility. He maintained that the multi-purpose sports pitch funded by a local Regeneration Group had encouraged greater access to the playground. He also considered the Team should have sought information from the police over a longer time scale.

(a) The Council had not taken positive steps to curb anti-social behaviour affecting him

20. The Council maintained that they have undertaken a variety of measures to encourage better behaviour from young people accessing the Primary School site. Fences and gates had been erected to direct the public around rather than through the school playground and to try to deter use of the playground as a right of way. A multi-purpose sports pitch had been built at the rear of the school to encourage structured activities and to promote well-being. The Team, in monitoring the situation (see paragraph 8), checked with the police who recorded five reports between 7 July and 9 August 2005. The Team concluded that there was no evidence of anti-social behaviour but the threat of such behaviour was causing

Mr C concern. The Team wrote to Mr C on 9 September 2005 informing him to contact the Team or the police should the situation deteriorate.

(a) Conclusion

21. Neither the police nor the Council's Anti-Social Behaviour Team has ignored Mr C's reports. Both have investigated but consider Mr C's perception is of the threat of anti-social behaviour. They have suggested that he make further approaches should the situation deteriorate. While I am satisfied that the matter is one of daily concern to him, I see no maladministration or service failure by the Council and do not uphold this aspect of his complaint.

(b) The Council had failed to act in a timely matter on specific measures suggested by Mr C

22. With regard to Mr C's suggestion of raising the short section of low wall, the Depute Chief Executive stated that colleagues in the Planning Service had suggested that the wall was built at its current height because it abuts a bus lane and any alteration to its height may affect sight lines. The wall was also next to steps leading from the public footpath into the school playground. If the height of the wall were to be increased and should a young person climb on it and fall the likelihood of injury would increase. Were these issues to be overcome, the Council would happily co-operate with Mr C on the basis that costs were shared. With regard to the installation of CCTV, the Council confirmed that due to budgetary restrictions installation of CCTV was strictly prioritised on the basis of schools with the highest levels of vandalism. The Primary School was not the highest priority. Each school had, however, been given an allocation from the Schools Fund to meet their own priorities. The current Head Teacher used that allocation to arrange for the installation of CCTV at the front of the school and this was installed by 31 March 2006.

(b) Conclusion

23. The Council have to prioritise their limited resources. While Mr C's suggestions were constructive and reasonable, I consider that the Council have properly investigated and have appropriately responded to his correspondence. A start on implementing Mr C's suggestions has been made with the installation of CCTV at the front of the Primary School. Hopefully this will act as a deterrent and prove useful in identifying those who may engage in vandalism or other anti-social

behaviour. With regard to the heightening of the wall, I note the Council's offer, subject to caveats, to consider this measure on the basis of shared costs. I do not uphold this head of complaint.

26 September 2006

Explanation of abbreviations used

Mr C	The complainant
The Council	South Ayrshire Council
The Primary School	The local primary school sharing a boundary with Mr C's house
Officer 1	The Practice Manager, Department of Environment and Infrastructure
Officer 2	The Customer Services Officer, Chief Executive's Department
Officer 3	The Head of Services, Educational resources
Officer 4	The Coordinator, Educational Resources
CCTV	Close Circuit Television
The Team	Anti-Social Behaviour Team