

Case 200502440: South Lanarkshire Council

Summary of Investigation

Category

Local government: Education

Overview

The complainant (Mrs C) raised a number of concerns that South Lanarkshire Council (the Council) were using incorrect school boundaries when deciding which children qualified for free school transport. The result of this was that the children concerned had to apply every term for 'privileged places' rather than being granted free places automatically. These privileged places are awarded at the discretion of the Council and are dependent on places being available on the existing transport. Mrs C is concerned that the Council have altered the school boundaries without the required statutory public consultation being carried out.

Specific complaint and conclusion

The complaint which has been investigated is that the Council are not using the correct school boundaries when establishing school placements and free school transport (*upheld*).

Redress and recommendations

The Ombudsman recommends that the Council carries out the actions that they have suggested to address the issues raised in this complaint, these are:

- (i) notify all effected parents of their intentions to guarantee school transport for their children until the end of their schooling; and
- (ii) ensure that the Catchment Area Review Group consider the issues raised in this report to ensure that a long term solution to the school boundary problems is achieved.

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

Main Investigation Report

Introduction

1. On 30 November 2005 the Scottish Public Services Ombudsman office received a complaint from a member of the public (Mrs C) who advised that she was concerned about the actions of South Lanarkshire Council (the Council) in respect of the local primary school (the School) boundaries. She complained that local children and several generations of their families have attended the School and its predecessor school and have historically had eligibility for free school transport.

2. Mrs C states that the Council now require parents to apply for 'privileged places' on school transport rather than automatically qualifying. She believes the Council have done this because they are not using the correct historical school boundaries.

3. When Mrs C initially brought her complaint to the Ombudsman's office she had not fully exhausted the Council's formal complaints procedure. As a result, we referred Mrs C back to the Council to request a review of her complaint. After further discussion and correspondence between Mrs C and the Council it was clear that Mrs C remained unsatisfied. As a result of this we formally initiated an investigation into her complaint on 18 August 2006.

4. The legal framework for placing children in schools is detailed in the Education (Scotland) Act 1980 as amended. If a school catchment area is to be altered, the local council must follow certain procedures including carrying out a public consultation. Their responsibility for this is detailed in the Education (Publication and Consultation Etc.) (Scotland) Regulations 1981 as amended.

5. The Council has a responsibility to maintain details of school catchment areas to ensure that they can comply with the Education (Scotland) Act 1980 and the Education (Publication and Consultation Etc.) (Scotland) Regulations 1981 as amended.

6. The Council has a statutory responsibility to provide free school transport to certain categories of pupils. If a pupil is placed in a school as a result of a parents placing request, however, they are not entitled to automatic free school transport. In cases such as these parents must apply to the Council regularly to

request that they be considered for 'privileged places'. The Council does not have a statutory duty to provide these places and they are not guaranteed.

7. The complaint from Mrs C which I have investigated is that the Council are not using the correct school boundaries when establishing school placements and free school transport.

Investigation

8. I have examined correspondence including responses to Mrs C's complaint from the Council. I have made written enquiries of the Council and have discussed the complaint with Council officers and Mrs C. I have identified the relevant legislation and reviewed the Councils' related policies and procedures. I have set out, for Mrs C's heading of complaint, my findings of fact and conclusions.

9. 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.

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10. The School attended currently by Mrs C's children was opened in 1973. Mrs C maintains that local children have all attended the School since it opened and prior to that attended its predecessor school in the nearby town for generations.

11. Mrs C has stated that the Council have not shown her any evidence to indicate that her local area is outwith the catchment area of the School.

12. In addition to the above, Mrs C has stated that she would be willing to survey all the neighbouring residents to establish the School history. She has also suggested that if the School records and registers were checked, it would establish the historical schooling position.

13. Mrs C has provided copies of old school handbooks which suggest that her local community was provided with free school transport. If this was the case then it indicates that her local community was zoned for the School.

14. The Council have confirmed that there have been no formal changes to the School catchment area since the Council's inception in 1996. They have produced two maps as evidence of the School catchment area. The Council also explained a small variation between the maps, one of which appeared to have been produced by the Council's predecessor as Education Authority, Strathclyde Regional Council. When asked for further evidence, the Council advised that they were in liaison with ex-teachers who were in the School at the opening in 1973. They also confirmed that they had again contacted the archivist for Strathclyde Regional Council to request a further search of the archives and finally that they had contacted the neighbouring council to establish whether there was any other historical information available which would help clarify matters.

15. On 19 July 2007 the Head of Administration Services wrote to the Ombudsman's office advising that he could now confirm that a full investigation has been completed and no records had been found that would confirm that Mrs C's local community is zoned for the School. No further evidence was, however, included.

16. On inspection, the older of the two maps had originally been prepared by Strathclyde Regional Council. This map detailed in felt tipped pen a boundary for the School which did not include Mrs C's local area. On the map there are a number of comments in the key marked in ball point and felt tipped pen. Included in these comments is one which states that a hatched area marked on the map shows where the choice of schools was optional and that this was confirmed with the school in 1999. What is not clear, however, is when the boundaries were marked on the map. If this was in 1999 then it was three years after Strathclyde Regional Council ceased to exist. The second map appeared to have been produced in 2006.

17. The original school boundaries would have been the responsibility of Lanark County Council as the School opened in 1973 before Strathclyde Regional Council came into being in 1975.

Conclusion

18. The evidence is not conclusive. The Council's internal enquiries have not provided any more evidence about the boundaries except to confirm that there is no evidence these have been changed. They have not been able to clearly

establish what the original boundaries were. Neither have they sought evidence from parents in the village or from the School records.

19. Mrs C has provided copies of school handbooks and advised of her understanding of the historical position. From my examination of this case I do not believe that the Council have satisfactorily taken steps to clarify the correct position. They have advised that no records have been found that would confirm the local area is zoned for the School. However, they have also not provided substantial evidence to prove that the local area is not zoned for the School.

20. The Council has a statutory duty to maintain details of school catchment areas. In this case it appears that the records are not now sufficient to fulfil this duty. Mrs C has suggested steps which could be taken to try to establish the historical position. The Council have not pursued these steps. Mrs C has also provided some evidence which suggests that her locality was included in the School's catchment area. Because of this, on balance, I uphold the complaint.

Recommendations

21. I have discussed the issues which have arisen as a result of this complaint with both the Council and Mrs C. As any recommendations could potentially impact on the local residents and the Council in a significant way, it was clearly important to attempt to find a solution to the problems which would be both effective and workable. As a result of these discussions, the Council met with Mrs C to discuss her concerns. At this meeting it was agreed by the Council that they would guarantee transport to the School for all children from Mrs C's area who currently attend the School until the end of their schooling at the School and, in addition, they would guarantee transport for the all siblings of those children currently attending. They have also offered to extend this guarantee to those children who have a nominated attendance at a local secondary school. This only involves some of the local children.

22. In addition to the above, the Council have agreed to ask the 'Catchment Area Review Group' to review the issue of the catchment area of the School. They will consider what further information needs to be obtained and what procedures need to be followed to enable a long term solution to this issue to be achieved. The Catchment Area Review Group was established to review the impact the new Local Development Plans for the four main geographical areas in South Lanarkshire will have on school catchment areas. It was felt that the

Catchment Area Review Group would be the best forum for reviewing the issues highlighted in this report, in respect of the School.

23. Although it has taken the Council some time to agree to the above actions, the Ombudsman would like to commend them for attempting to find appropriate workable solutions to the problems identified in the background to this complaint. These issues have arisen as a result of a historical issue with record-keeping in the predecessor local authorities. The current Council have inherited this difficult situation. On the basis of the actions proposed by the Council in respect of guaranteeing school transport and a review by the Catchment Area Review Group, the Ombudsman has no further recommendations to make on this case.

24. The Council have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the Council notify her when the recommendations have been accepted.

Explanation of abbreviations used

Mrs C	The complainant
The Council	South Lanarkshire Council
The School	The local primary school attended currently by Mrs C's children