

## Scottish Parliament Region: Mid Scotland and Fife

### Case 200701625: Perth and Kinross Council

#### Summary of Investigation

##### **Category**

Local government: Secondary Education

##### **Overview**

The complainant, Mr C, raised a number of issues concerning Perth and Kinross Council (the Council)'s support for his daughter (Ms C) attending school.

##### **Specific complaints and conclusions**

The complaints which have been investigated are that the Council failed to:

- (a) develop and implement an adequate strategy to support his daughter in school (*not upheld*);
- (b) substantiate their position that his daughter had made significant progress and that a high level of resources and support had been given to her (*not upheld*);
- (c) independently assess his complaints (*not upheld*); and
- (d) respond to his queries in a timely manner or provide an explanation for the delay (*upheld*).

##### **Redress and recommendations**

The Ombudsman recommends that the Council advise her when their new complaints handling system is fully implemented

The Council have accepted the recommendation and will act on it accordingly.

## **Main Investigation Report**

### **Introduction**

1. On 6 September 2007, Mr C wrote to the Ombudsman about his daughter (Ms C)'s longstanding difficulties in adapting to school. He said that, because of this, before she transferred to secondary school, he raised his concerns directly with the school and asked that they develop and implement a strategy to support her. He alleged that they failed to do so adequately and complained that when he challenged Perth and Kinross Council (the Council) with this, they provided non specific statements in support of their position.

2. The complaints from Mr C which I have investigated are that the Council failed to:

- (a) develop and implement an adequate strategy to support his daughter in school;
- (b) substantiate their position that his daughter had made significant progress and that a high level of resources and support had been given to her;
- (c) independently assess his complaints; and
- (d) respond to his queries in a timely manner or provide an explanation for the delay.

### **Investigation**

3. The investigation of this complaint involved obtaining and reading all the relevant documentation, including correspondence between Mr C and the Council. I have also had sight of internal notes and emails concerning Ms C, a Minute of an additional support meeting dated 25 September 2007; an Individualised Educational Programme (IEP) with a start date of 7 November 2007; and a report by the Head of Legal Services (the Report) dated 30 October 2007, which outlined the performance of the Council's complaints procedure for the period 1 April 2007 to 30 September 2007. On 13 November 2007 I made a formal enquiry of the Council and a response was received on 16 December 2007.

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

**(a) The Council failed to develop and implement an adequate strategy to support his daughter in school; and (b) The Council failed to substantiate their position that his daughter had made significant progress and that a high level of resources and support had been given to her**

5. Ms C, who was born in April 1994, suffered from separation anxiety while at primary school, to the extent that she had a difficult time between years 4 and 6. Consequently, she required extra staff support to help get her back into mainstream school at P7 level. Because of the difficulties she experienced, Mr C was particularly keen to ensure that her transition into secondary education was as smooth and as stress free as possible. Ms C had also been identified by staff within her primary school as facing potential problems.

6. Prior to starting her new school, Ms C participated in various programmes and projects and made a number of school visits, both with and without her parents. Information relating to Ms C was passed between the teachers of the two schools and Ms C was asked to name two special friends she would like with her in her new secondary form class. On 10 August 2006, a week before the beginning of the new term, Mr C wrote to the secondary school (the School) reminding them of Ms C's problems and of his view that opportunities had already been lost, in that Ms C had only been placed within a class with one of her chosen friends (a boy) and that the summer school she had attended had been ineffective. He said that he wanted a point of contact person to be identified and also wanted to be assured that all his daughter's subject teachers were aware of her situation.

7. A staff member sought out Ms C on two occasions on her first day at the School when she reported that 'everything was OK'. However, Ms C failed to attend on the second day of term and, while she attended on the third, she had become withdrawn and telephoned her mother to take her home. On discussion, it appeared that Ms C was particularly anxious about French but after talking to the teacher concerned and putting in place measures whereby Ms C could leave the lesson if she wished, she returned. The teacher consulted with Mr and Mrs C and their daughter and it was arranged between them that a support teacher (Support Teacher 1) would act as a shadow for a day or two but the School felt that, generally, this type of support would have to be measured to avoid dependence. It was also agreed that Support Teacher 1 would speak to Ms C's class teachers about her concerns; that she would dip in and out of her classes regularly to check on Ms C's progress and help her to

move between classrooms. Ms C would be invited to attend a lunch time class if she wanted.

8. Support Teacher 1 continued to check on Ms C's progress in her classes and generally, throughout August and September 2006, this was good although there were a few absences. On 27 September 2006, the day before an arranged meeting between Mr C and the Year Head, Mr C wrote identifying the issues he wished to discuss with her. He maintained that there was a lack of proper understanding of his daughter's problems; insufficient resources and support had been given to her; and that communication problems had resulted in Ms C being asked a question in class which was contrary to what had been agreed. Mr C said that he was looking for assurances from the School. Following the meeting there were then further, similar, incidents the following month occurring around half term time and coinciding with Support Teacher 1 going on sick leave. Staff were reminded of the agreement with regard to questioning and a new first contact teacher (Support Teacher 2) was confirmed. By 24 October 2006 matters appeared to have stabilised somewhat, as a letter confirming the details of a meeting that day referred to Mr C's positive feedback and asked if he would establish from Ms C two subjects in which she felt most comfortable and where gentle questioning could start. A date for a review meeting on 20 November 2006 was set. At this time Mr C also felt things were going well, as a telephone note of 27 October 2006 indicated that he felt that 'we are now working together and that this has had a positive effect on [Ms C]'. However, on 31 October 2006, Mr C wrote to the Depute Head Teacher of the School saying that, despite the previous good week with full attendance, as soon as he tried to discuss her favourite subjects with his daughter with a view to starting questions, there was an immediate change and she refused to go to school. He thought, in the circumstances, that they had pushed her too hard and that the School should relax the pace of change. The School agreed and suggested a programme for attendance and participation over the weeks beginning 6 November and 13 November 2006; thereafter, to move towards more participation in two classes which Ms C identified. In the meantime, work was being sent home for Ms C.

9. The situation did not improve appreciably and Support Teacher 2 agreed, during a meeting with Mr and Mrs C on 16 November 2006, to begin 1:1 work with Ms C to improve her confidence building. A suggestion was made about her future reintegration back into school. Support Teacher 2 wrote to Ms C the same day about this conversation. Ms C returned to school for a short time

during 20 November and 21 November and for a little while longer on 22 November and 23 November 2006. Throughout this period, she was noted as being 'not at all worried or anxious' (although on seeing the draft of this report, Mr C said that this was not his recollection). However, on 26 November 2006 Mr C wrote to the Head Teacher saying that, on reflection, he thought there had been a lack of understanding of his daughter's problems and that she had been given insufficient support. He took the view that her current problems stemmed from this; that the transition process had been a failure (see paragraph 6); and that the School had missed an opportunity. He asked for her comments.

10. The Depute Head Teacher replied on 20 December 2006. She said that she believed that the efforts to build Ms C's confidence, despite the slower pace, had led to her making 'some significant progress'. She rehearsed the actions which had been taken to assist Ms C make the transition from primary to secondary school. She said that, in her view, there had been an understanding of his daughter's problems and that staff had been advised. She said there had been an awareness that these problems were long term and that she was not surprised that levels of support had to be re-adjusted during her first term at the School. Ms C's progress would dictate the support levels dedicated to her and the School was committed to supporting her appropriately, flexibly and progressively. While she noted Mr C's opinion, she did not agree that the transition had been a failure because, since October 2006, Ms C had been found to be relaxed, socially confident and capable (Mr C maintained in his comments on this report that his daughter's social skills have always been a strength and it was the classroom environment that she found difficult). She looked forward to discussing Ms C's situation further with him during a meeting to be arranged in January 2007.

11. In the meantime, by the end of November 2006, Ms C's attendance at school was intermittent and a report on her situation was written by Support Teacher 2 on 28 November 2006. Support Teacher 2 said that experience had shown her that if pupils were allowed to 'find their feet' in their new school environment, for which they had been prepared by the transition process, they generally responded well. She said that Ms C had been observed during August and September 2006 and no issues had been identified; Ms C was relaxed and functioned well in class (but Mr C said this was inconceivable) and with her peer group. Support Teacher 2 detailed the transition process which had taken place with regard to Ms C and her first term and she accepted Mr and

Mrs C's view that a slow pace was required. She agreed that this had been a sensible place to start. However, Support Teacher 2 also noted that when Ms C was allowed to dictate pace, progress was slow. Support Teacher 2 had reservations that Ms C would choose to increase her school attendance without a more structured programme. She said that she had discussed with Ms C that she needed to be in school and to fulfil any commitments she made about attendance. She said that this would allow a consistent programme to be put in place together with counselling. She noted, however, that Ms C had rejected this approach in the past.

12. Mr C was unhappy with the School's approach and on 11 January 2007 he complained to the Council. He restated his opinion that his daughter's current difficulties were the result of inadequate support and a lack of proper understanding. He said that inadequate resources had been given to Ms C and that, within the School, communication had been poor. He did not accept that there had been significant progress in Ms C's case and he requested that the Council independently review Ms C's transition to the School and comment on the issues he had raised. He also asked what other measures and support could be available to Ms C in both the short and long term. He specifically raised the subject of what he called a Co-ordinated Support Plan. Mr C followed this correspondence by a letter the next day to the Depute Head Teacher, saying that he would not press Ms C to return to school and that he wanted regular homework sent to her.

13. The Service Manager-School Improvement Services (the Service Manager) replied to Mr C on behalf of the Council on 27 February 2007. She answered each of his complaints and acknowledged that there had been a delay in Ms C receiving a pass (a system had been devised to allow her to leave class immediately on presentation of a pass, rather than after making a request and providing an explanation) but, otherwise, she thought that the School's dealings had been satisfactory and that they were flexible and committed. As for Mr C's enquiry about alternatives available to his daughter – he was advised that decisions were normally based on the results of an Educational Psychologist's assessment. She confirmed that this would be a way of moving things forward. She also confirmed that an IEP could be prepared to assist Ms C back to school. Mr C remained unhappy with the Council's position and confirmed this in his reply of 21 March 2007. He said that he did not accept their position and continued to have on-going concerns. He emphasised that, in his view, there had been no 'significant progress' and

that the Council had failed to evidence otherwise. Throughout this time, Ms C remained at home, although she did not appear to return any of the homework she had been given. An invitation was extended to her to return to the School for the last day of term but there was no response.

14. Mr C's further letter (see paragraph 13) was passed to the Council's Executive Director for attention and he wrote to Mr C on 30 March 2007. He said that he had reviewed the complaint but was satisfied that a thorough investigation had been carried out. He confirmed that the Service Manager's letter (see paragraph 13) was an accurate reflection of those investigations. As Mr C considered this to be a totally inadequate response, on 13 April 2007 he escalated his complaint through the Council's complaints procedure to the Chief Executive. His complaint was acknowledged on 20 April 2007 but Mr C did not receive a substantive reply from the Depute Chief Executive on behalf of the Council until 13 August 2007 (although, in the meantime, the Council had apologised for their delay, in responding outwith the Council's stated timescales). At that point Mr C received a further apology for the delay and for the fact that the Executive Director's letter (see paragraph 14) failed to address any of the questions Mr C had previously raised. Attention was then given to those matters and a suggestion was made that the best way forward would be for Ms C to be assessed by an Educational Psychologist and it was confirmed that an IEP could be created to assist her back to school. Mr C's reply, dated 19 August 2007, said that he remained unhappy. He said that an IEP had been recommended before, in primary school, but never put into place. It was his view that it would not benefit Ms C to see an Educational Psychologist (which, he said, because of her reluctance to attend, was confirmed by the Educational Psychologist), and he requested some home teaching assistance. On 6 September 2007 Mr C made a formal complaint to the Ombudsman about the way in which the Council had handled the matter.

*(a) Conclusion*

15. Mr C did not believe that the Council developed (and implemented) an adequate strategy to support his daughter. His view was that they did not properly understand her problems or offer her sufficient support in the face of these. I am aware that his daughter's education and personal development are matters of great concern to him but I am not persuaded by Mr C's arguments. I am satisfied from the above that the School and Council were fully cognisant of the possible difficulties Ms C might have in transferring to secondary school. They had already been involved with her at primary level. There was an

exchange of information prior to Ms C changing schools and various programmes had been put in place to assist her (see paragraph 6). A staff member was tasked with checking on her during the first day or two and, very quickly, a support teacher was allocated to ease her transition into the School; at the same time the School was concerned that Ms C should not become too dependent. Unfortunately, Support Teacher 1 became ill around half term time but, up until that point, the School have advised that they were seeing a young girl who was adapting to her changing situation, who was generally happy and relaxed. They acknowledged that there were occasional upsets in class (see paragraph 8) but it is my view that the School remained committed to helping Ms C and quickly took action. They remained flexible to the pace of change and adapted this to suit Ms C. Mr C, however, saw a different child, one who was anxious and increasingly reluctant to go to school. He said he and his wife were doing all they could to encourage Ms C but without success. He considered that the responsibility for this thus lay with the Council.

16. It is not unusual for a school and parents to see a child differently. This does not make either view incorrect. Looking at the evidence available, I am satisfied that the School and the Council willingly dedicated appropriate time and resources to her. Regrettably, for whatever reason, the investment made did not result in Ms C moving easily from primary to secondary with full attendance. Ms C appears never to have articulated the reasons for her difficulties and she has not attended an Educational Psychologist who could perhaps assist her. However, I respect Mr C's view about the efficacy of an Educational Psychologist meeting but, nevertheless, an available tool which might help to reach the crux of the problem, remains unused. This may have allowed procedures to have been put into place which could have related directly to issues of concern.

17. This has been a difficult case but, on balance, given the evidence before me, I do not criticise the Council's actions or the level of support offered to Ms C. Accordingly, I do not uphold the complaint.

*(b) Conclusion*

18. When the Depute Head Teacher replied to Mr C in December 2006 (see paragraph 10) she said that Ms C had made 'some significant progress' but Mr C challenged this. I have had sight of handwritten notes compiled by Support Teacher 1 and Support Teacher 2 (see paragraph 3) and, generally, they comment favourably on Ms C's general demeanour and coping ability.



Instances were recorded when there were problems but, overall, a positive picture was presented. On occasion, I have also noted that the complainant felt things were progressing (for example, in late October 2006, see paragraph 8), although I accept that towards the end of that first term he thought that the system had failed his daughter who, by this time, was not really attending school.

19. Up until half term, when the subject of gentle questioning was raised, things appeared to be progressing quite well (see paragraph 8). However, with Mr C's input, the School then amended the pace at which Ms C was encouraged to participate (with regard to this, I note Support Teacher 2's comments about Ms C's involvement and her observation that when she was allowed to dictate pace, progress was slow). Nevertheless, it was Ms C's teachers' professional opinion that, taken as a whole, there was 'some significant progress' and I consider that this assessment was a fair reflection of Ms C's ability to form friendships, participate in social events, move from class to class on her own and basically adapt to the challenges presented by a large secondary school, particularly given the concerns that had existed prior to her move to secondary school. Mr C does not agree but I do not consider that his different opinion invalidates Ms C's teachers' view, as I believe there was enough evidence to support the Depute Head Teacher's contention. Paragraphs 6 to 11 demonstrate to me that significant staff time and resources were dedicated to Ms C. Mr C may not believe these resources were sufficient but, given the School's responsibility to all its pupils, including others like Ms C who had problems, I am satisfied that Ms C's circumstances were properly supported. I do not uphold this complaint.

**(c) The Council failed to independently assess his complaints**

20. It is clear that in replying to Mr C's concerns, which continued as his complaint progressed through the Council's complaints procedure, the Executive Director in his letter of 30 March 2007 did not respond to the terms of the complaint Mr C had made. He merely reiterated the view that a thorough investigation had been carried out but gave no evidence to back this up. Mr C wrote again and the Depute Chief Executive responded on 13 August 2007. In his letter he apologised for the earlier failure to respond properly. He went on to provide Mr C with a full reply to his complaint but, by this time, Mr C had lost confidence in the Council and did not accept their reply as satisfactory.

*(c) Conclusion*

21. Mr C continues to hold a different view about the support given to his daughter but this has been dealt with above (complaints (a) and (b)). It is the case that Mr C was correct in his assumption that Council officers failed to reassess his complaint but they later corrected the situation and apologised to him, by letter of 13 August 2007. Having considered the complaint correspondence closely, I am satisfied that the Council adequately addressed Mr C's complaints and, at the time of writing to him on 13 August 2007, had considered his concerns. Accordingly, I do not uphold his complaint.

**(d) The Council failed to respond to his queries in a timely manner or provide an explanation for the delay**

22. Up until the time Mr C escalated his complaint through the Council's formal complaints process, the School's replies to his correspondence were always made within a reasonable time. Unfortunately, thereafter, there was slippage. In particular, although Mr C raised his concerns with the Chief Executive on 13 April 2007, it was not until 13 August 2007 that he received a substantive reply. Some of this was due to annual leave and work commitments but, nevertheless, the time taken was well outwith the Council's anticipated response times for dealing with complaints. When a reply was eventually sent to Mr C, the Council apologised to him although a full explanation was not given.

23. In this regard, I have had sight of information concerning the Council's performance in dealing with complaints during the relevant period (the Report, see paragraph 3). During this time the number of complaints moving through the system had escalated to the point that there was a serious impact on service delivery and, in fact, none of their stage 3 complaints (to the Chief Executive) received a reply within the 10 day deadline. The backlog created was exacerbated by a staffing resource issue. Since then, the Council have been looking to refine their complaints procedure and, during my enquiries, I was advised of changes to address this state of affairs.

*(d) Conclusion*

24. Nevertheless, given the failures described above, I uphold this complaint. However, I consider that the actions so far proposed by the Council to prevent a recurrence of the situation, are satisfactory.

*(d) Recommendation*

25. In relation to this aspect of the complaint, the Ombudsman recommends that the Council advise her when their new complaints handling system is fully implemented.

26. The Council have accepted the recommendation and will act on it accordingly.

**Explanation of abbreviations used**

Mr C	The complainant
Mrs C	Mr C's wife
Ms C	The complainant's daughter
The Council	Perth and Kinross Council
IEP	Individualised Educational Programme
The Report	A report by the Head of Legal Services dated 30 October 2007, which outlined the performance of the Council's complaints procedure for the period 1 April 2007 to 30 September 2007
The School	The secondary school where Ms C attended
Support Teacher 1	The support teacher chosen , through consultation with Mr and Mrs C and their daughter, to support Ms C at the School
Support Teacher 2	A new first contact teacher who replaced Support Teacher 1
The Service Manager	The Council's Service Manager - School Improvement Services