

Case 200602270: Clackmannanshire Council

Summary of Investigation

Category

Local government: Education

Overview

The complainant (Mrs C) raised a number of concerns regarding, and springing from, the way her daughter (Miss C)'s exclusion from a school (School 1) in Clackmannanshire Council (the Council)'s area was handled. Mrs C had specific concerns about: the exclusion process; the process for enrolling Miss C for her examinations; the way in which the possibility of Miss C attending a new school was handled; and the decision not to allow Miss C to go on a school trip. In respect of all these complaints, Mrs C felt that she and her daughter had been treated unfairly by the Council and by schools within the Council's area.

Specific complaints and conclusions

The complaints which have been investigated are that

School 1:

- (a) failed to provide Miss C with a date on which her exclusion would finish and on which she could return to School 1 (*upheld*);
- (b) told Miss C that she would not be able to return to School 1 until the outcome of her appeal was known. Miss C believed that she should have been allowed to return while her appeal was pending (*not upheld*);
- (c) failed to tell Miss C and Mrs C who would attend a meeting at School 1 on 6 February 2006 (*upheld*);
- (d) failed to inform the Director of Services to People that Miss C had been excluded (*not upheld*);
- (e) failed to give Miss C direct teaching input while she was excluded from School 1 for a month (*upheld*);
- (f) unnecessarily called a school in another Council's area (School 2) on 20 March 2006 despite the fact that Mrs C had already informed the Council's staff that they were moving to another town outwith the Council's area (*not upheld*);

- (g) released Miss C's personal information to School 2 even though, at that time, she did not attend there (*not upheld*);
- (h) intentionally and unnecessarily caused alarm to School 2 by telling them about Miss C and her family on 20 March 2006, which gave a bad impression of Miss C at School 2 where she was not yet a pupil (*not upheld*);
- (i) intentionally sent a record of Miss C's exclusion to School 2 on 21 March 2006 even though the Council had lifted the reference to exclusion from the file prior to 15 March 2006 (*not upheld*);
- (j) failed to inform School 2 that Miss C had returned to School 1 on 27 February 2006 (*not upheld*);
- (k) failed to enrol Miss C with the Scottish Qualifications Authority (SQA) at the same time as enrolling all other pupils (*not upheld*);
- (l) failed to enrol Miss C with the SQA towards the end of April 2006 when School 2 called urgently regarding Miss C's exam timetable (*not upheld*);
- (m) failed to inform the SQA of Miss C's change of address when enrolling her with the SQA at the end of May (*not upheld*);
- (n) failed to provide satisfactory reasons why Miss C was not allowed to go on a school trip in May 2005 and unfairly discriminated against Miss C by not allowing her to go on the trip (*not upheld*);

The Council:

- (o) 'nagged' Mrs C and Miss C to consider enrolling at two other schools in the Council's area (School 3) and (School 4), even though Mrs C had made clear that she wished Miss C to return to School 1 (*not upheld*);
- (p) refused to accept Mrs C and Miss C's decision to return to School 1 during a meeting on 22 February 2006 (*not upheld*);
- (q) inappropriately called School 4 about Miss C without the consent or knowledge of Miss C or Mrs C (*not upheld*);
- (r) inappropriately requested that Mrs C enrol Miss C at School 4 when Mrs C had never thought of enrolling her there (*not upheld*);
- (s) repeatedly pressed Mrs C and Miss C to reconsider enrolling Miss C at either School 3 or School 4, causing emotional harm to them (*not upheld*);
- (t) School 3 failed to respond to Mrs C's email requesting that Miss C attend School 3 (*not upheld*);
- (u) School 3 ignored Mrs C's emails in which she said that she had changed her mind and wanted Miss C to stay at School 1 (*not upheld*);

- (v) School 3 inappropriately sent an email to Mrs C requesting a meeting with the rector of School 3 even though Mrs C had already stated that she wanted Miss C to return to School 1 (*not upheld*);
- (w) School 3 inappropriately requested, over the telephone, that Mrs C attend a meeting even though she had already informed School 3 and the Council that Miss C wanted to go back to School 1 (*not upheld*); and
- (x) School 3's actions referred to in complaints (v) and (w) were done with the intention of putting Miss C off returning to School 1, possibly on the instructions of the Council (*not upheld*).

Redress and recommendations

The Ombudsman recommends that the Council:

- (i) either review their Exclusion Policy to match their normal practice or take steps to ensure that their normal practice is in line with their current Exclusion Policy;
- (ii) apologise to Miss C for not providing her with the direct teaching input to which she was entitled during her exclusion; and
- (iii) remind relevant officers at School 1 of the requirements of the Exclusion Policy so that, in future, arrangements are made for pupils with a Stage 3 exclusion to be provided direct teaching input.

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

Main Investigation Report

Introduction

1. On 6 November 2006, the Ombudsman received a complaint from a woman, referred to in this report as Mrs C, who had various concerns regarding, and springing from, the way her daughter (Miss C)'s exclusion from a school (School 1) in Clackmannanshire Council (the Council)'s area (School 1) was handled. Mrs C had specific concerns about: the exclusion process; the process for enrolling Miss C for her examinations; the way in which the possibility of Miss C attending a new school was handled; and the decision not to allow Miss C to go on a school trip. In respect of all these complaints, Mrs C felt that she and her daughter had been treated unfairly by the Council and by schools within the Council's area.

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

School 1:

- (a) failed to provide Miss C with a date on which her exclusion would finish and on which she could return to School 1;
- (b) told Miss C that she would not be able to return to School 1 until the outcome of her appeal was known. Miss C believed that she should have been allowed to return while her appeal was pending;
- (c) failed to tell Miss C and Mrs C who would attend a meeting at School 1 on 6 February 2006;
- (d) failed to inform the Director of Services to People that Miss C had been excluded;
- (e) failed to give Miss C direct teaching input while she was excluded from School 1 for a month;
- (f) unnecessarily called a school in another Council's area (School 2) on 20 March 2006 despite the fact that Mrs C had already informed the Council's staff that they were moving to another town outwith the Council's area;
- (g) released Miss C's personal information to School 2 even though, at that time, she did not attend there;
- (h) intentionally and unnecessarily caused alarm to School 2 by telling them about Miss C and her family on 20 March 2006, which gave a bad impression of Miss C at School 2 where she was not yet a pupil;
- (i) intentionally sent a record of Miss C's exclusion to School 2 on 21 March 2006 even though the Council had lifted the reference to exclusion from the file prior to 15 March 2006;

- (j) failed to inform School 2 that Miss C had returned to School 1 on 27 February 2006;
- (k) failed to enrol Miss C with the Scottish Qualifications Authority (SQA) at the same time as enrolling all other pupils;
- (l) failed to enrol Miss C with the SQA towards the end of April 2006 when School 2 called urgently regarding Miss C's exam timetable;
- (m) failed to inform the SQA of Miss C's change of address when enrolling her with the SQA at the end of May;
- (n) failed to provide satisfactory reasons why Miss C was not allowed to go on a school trip in May 2005 and unfairly discriminated against Miss C by not allowing her to go on the trip;

The Council:

- (o) 'nagged' Mrs C and Miss C to consider enrolling at two other schools in the Council's area (School 3) and (School 4), even though Mrs C had made clear that she wished Miss C to return to School 1;
- (p) refused to accept Mrs C and Miss C's decision to return to School 1 during a meeting on 22 February 2006;
- (q) inappropriately called School 4 about Miss C without the consent or knowledge of Miss C or Mrs C;
- (r) inappropriately requested that Mrs C enrol Miss C at School 4 when Mrs C had never thought of enrolling her there;
- (s) repeatedly pressed Mrs C and Miss C to reconsider enrolling Miss C at either School 3 or School 4, causing emotional harm to them;
- (t) School 3 failed to respond to Mrs C's email requesting that Miss C attend School 3;
- (u) School 3 ignored Mrs C's emails in which she said that she had changed her mind and wanted Miss C to stay at School 1;
- (v) School 3 inappropriately sent an email to Mrs C requesting a meeting with the rector of School 3 even though Mrs C had already stated that she wanted Miss C to return to School 1;
- (w) School 3 inappropriately requested, over the telephone, that Mrs C attend a meeting even though she had already informed School 3 and the Council that Miss C wanted to go back to School 1; and
- (x) School 3's actions referred to in complaints (v) and (w) were done with the intention of putting Miss C off returning to School 1, possibly on the instructions of the Council.

Investigation

3. The investigation of this complaint involved obtaining and reading copies of all the correspondence between Mrs C and the Council. I also made two written enquiries of the Council. 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.

Background

4. Miss C was excluded from School 1 on 27 January 2006 for allegedly writing an inappropriate letter to a teacher. The exclusion was eventually removed from Miss C's record and the Council acknowledged, in responding to Mrs C's complaint to them, that the decision to exclude Miss C had been seriously flawed. The Council also accepted that mistakes were made in relation to the transfer of Miss C's school record to another town outwith the Council's area in April 2006, after Miss C had moved there to pursue her education at School 2. In addition, the Council acknowledged that there had been delays in responding to Mrs C's request for an appeal and in responding to some of Mrs C's correspondence. The Council apologised to Mrs C for these mistakes.

5. While the Council accepted some errors had been made when responding to Mrs C's complaint, they refuted the majority of the allegations that Mrs C had made. The complaints I have investigated and which feature in this report relate to the points that Mrs C felt were outstanding following completion of the Council's complaints procedure.

(a) School 1 failed to provide Miss C with a date on which her exclusion would finish and on which she could return to School 1

6. In response to Mrs C's complaint to them, the Council said that it was standard practice to arrange a meeting with parents as soon as possible after a decision to exclude had been taken to agree, both a date for return to school, and any conditions that might be attached to that return.

7. School 1 wrote to Mrs C on 27 January 2006 advising her of the exclusion and inviting her to a meeting to discuss the exclusion. The letter stated:

'Stage 3: malicious communication.

Length of Exclusion: to be discussed. Date of return: to be discussed.

Conditions of re-admission to school – agreed commitment to improve behaviour/follow school rules.'

8. A minute of the meeting, held on 6 February 2006, stated:
'As [Depute Rector] tried to explain the process of [Miss C]'s return to school pending [Mrs C]'s appeal, [Mrs C] and [Miss C] stormed out of the meeting preventing this from happening.'

9. Another note of the same meeting stated:
'[Depute Rector] moved to discuss return to school pending the appeal, however, [Mrs C] and [Miss C] walked out.'

10. The Council said, therefore, that Mrs C and the school could not agree on a return date at the meeting. The Council explained that if no return date was agreed at a re-admission meeting then there was no way in which the pupil could return to school until there was agreement. The Council said that, in any exclusion, there was a requirement that the excluded pupil showed they were willing to return to school and agreed to any conditions imposed on that return. The Council submitted a letter from School 1 to Mrs C dated 7 February 2006, which stated:

'We met yesterday to discuss the reason for [Miss C]'s exclusion from school on 27th January. Towards the end of our meeting I tried to discuss with you a return to school for [Miss C] pending the outcome of your appeal but both [Miss C] and you left the meeting. Please contact me at the school so that we can discuss [Miss C]'s return.'

11. The Council submitted a copy of an email, dated 10 February 2006, from Mrs C to School 1 in which she stated:

'Although my daughter is required to follow the school rules along with all other pupils in the same school, I will not sign any papers regarding commitment to improve behaviour, etc, due to the fact that the exclusion was solely decided because of the letter sent by somebody to [a teacher], and nothing else.

I want my daughter to return to school like all other pupils without any extra commitment apart from following the school rules like all other pupils.'

The letter also stated that Mrs C would not allow Miss C to return to School 1 unless no contact occurred between her daughter and the Depute Rector of School 1.

12. The Council's Policy and Guidelines on Exclusion from School (the Exclusion Policy) states, in Section 4:

'Statutory provisions relating to the procedures to be followed in exclusions are set out in regulation 4A of the Schools General (Scotland) Regulations 1975.

The school must, on the day upon which a decision to exclude a pupil is taken, intimate in writing or orally to the pupil's parent:

- The decision to exclude; and
- The date, time and place where the Headteacher shall be available to discuss the decision to exclude.
- This meeting must be held as soon as possible following the decision to exclude ...

Stage one one to three school days

Stage two up to five school days

Stage three up to ten school days.'

13. Appendix 2 of the Exclusion Policy, 'Notes for Parents and Carers', under the heading 'How do schools let parents know that their child has been excluded?' stated:

'If your child is being excluded during the school day we will phone you. If we cannot get in touch with you, at home or at work, or your emergency contact, we will send a letter home with your child at the end of the school day, explaining:

- Why your child has been excluded.
- How long s/he is being excluded.
- The date of the re-admission meeting.

(a) *Conclusion*

14. Appendix 2 of the Exclusion Policy clearly stated that the letter advising a parent of the exclusion and arranging a re-admission meeting should indicate 'How long s/he is being excluded'.

15. The Council have stated that it is their normal practice to meet with parents not only to discuss re-admission but to discuss the date of re-admission. However, this practice appears to go against the advice contained in their Exclusion Policy.

16. Given that Appendix 2 of the Exclusion Policy stated that parents will be informed of the length of exclusion in the letter inviting them to a re-admission meeting, parents, including Mrs C, would have a reasonable expectation that they would be told how long their children would be excluded for. This expectation was not met in this case and, consequently, I uphold this complaint.

17. While I uphold the complaint, on the basis that there is a discrepancy in the Council's practice in this case compared to their published guidance, I do note the Council's point that a pupil has to agree to return to school and agree to reasonable conditions before being re-admitted.

18. In this case, regardless of the fact that Mrs C disagreed with the decision to exclude Miss C, agreement could have been reached for her to return to School 1. However, given that discussion was not fruitful at the meeting on 6 February 2007 and that Mrs C subsequently indicated, in her email dated 10 February 2007, that she was not prepared to accept any conditions on Miss C's return to School 1, it is clear that a stalemate had been reached.

19. Mrs C did not feel she could return Miss C to School 1 with conditions attached to that return; School 1 did not feel that Miss C could return without accepting conditions. It is likely, therefore, that even if a date for Miss C's return had initially been provided, it would not have been met due to the inability of Mrs C and School 1 to reach agreement on re-admission.

(a) Recommendation

20. The Ombudsman recommends that the Council either review their Exclusion Policy to match their normal practice or take steps to ensure that their normal practice is in line with their current Exclusion Policy.

(b) School 1 told Miss C that she would not be able to return to School 1 until the outcome of her appeal was known. Miss C believed that she should have been allowed to return while her appeal was pending

21. The Council provided me with copies of minutes of the meeting between School 1, Mrs C and Miss C on 6 February 2006 (see paragraphs 8

and 9 above) and a letter dated 7 February 2006 (see paragraph 10 above). The Council believed these documents refuted the complaint.

22. The Scottish Executive¹ Education Department's Circular 8/03 stated:

'A pupil's/parent's decision to appeal against exclusion should in itself have no effect on the length of the exclusion, or on any conditions attached to the pupil's return. A pupil may return to school after a period of exclusion even if the appeal process has not been completed prior to this date.'

23. Mrs C, commenting on the Council's response to my enquiries, said that she had been told by the Depute Rector at the meeting on 6 February 2006 that the length of the exclusion depended on whether or not a parent chose to appeal. Mrs C said that the Depute Rector told her:

'... it is because you are making an appeal. Your daughter would not be allowed to return to school until the outcome of the appeal was known. By that time, the school will have a meeting with you to consider the return to school.'

24. Mrs C said the fact that the Depute Rector chose to write to her the day after the meeting on 6 February 2006 proved that he refused to allow Miss C to return to School 1 pending the appeal.

(b) Conclusion

25. The evidence I have seen shows that School 1 tried to discuss Miss C's return with Miss C and Mrs C. The notes of the meeting held on 6 February 2006 record that Mrs C and Miss C left before a full discussion could be had. The letter sent to Mrs C the following day indicated that School 1 were willing to make arrangements for Miss C to return.

26. While there is a difference of opinion between Mrs C and Miss C and School 1 about what was said at the meeting on 6 February 2006 – in that School 1's minute makes no reference to an appeal being a barrier to re-admission, whereas Mrs C states this was said – the documentary evidence available to me shows no indication that Mrs C and Miss C were told the appeal

¹ On 3 September 2007 Scottish Ministers formally adopted the title Scottish Government to replace the term Scottish Executive. The latter term is used in this report as it applied at the time of the events to which the report relates.

would prevent Miss C returning to School 1. Indeed, the documentary evidence indicates that School 1 made appropriate efforts to discuss Miss C's return to school with her and her mother.

27. In light of my comments at paragraph 26 above, I do not uphold this complaint.

(c) School 1 failed to tell Miss C and Mrs C who would attend a meeting at School 1 on 6 February 2006

28. The Council, responding to Mrs C's complaint to them, accepted that advance notice of who would be attending the exclusion meeting was not given. They said that was not unusual, and it was no different from other cases. They said that, although it did not perhaps represent best practice, it had little bearing on the case.

29. In responding to my investigation, the Council said there was no requirement for School 1 to inform parents of who would be attending meetings and that this was at the Head Teacher's discretion. They said that the Head Teacher would invite anyone who had a pastoral or senior management responsibility for the pupil concerned.

30. Appendix 2 of the Exclusion Policy, 'Notes for Parents and Carers', under the heading 'Who else will be at the meeting?' stated:

'The Headteacher or his/her representative chairs the meeting. We will also invite anyone else involved with your child's welfare to come along, for example, teachers, a social worker, educational psychologist or support worker. We will inform you who has been invited.'

(c) Conclusion

31. The Council say they followed their normal practice in this case but, as in complaint (a) above, their normal practice seems to be at odds with their published Exclusion Policy. In this case, Mrs C and Miss C were not informed of who had been invited to the meeting on 6 February 2006 despite the Exclusion Policy indicating that this should happen. Consequently, I uphold this complaint.

32. My recommendation under complaint (a) addresses the failing identified here. Therefore, I have no further recommendations.

(d) School 1 failed to inform the Director of Services to People that Miss C had been excluded

33. The Council said that a copy of the letter in which Mrs C was informed of Miss C's exclusion had been sent to the Services to People Directorate and that this was in line with their Exclusion Policy. They said that all exclusion letters were sent to the Director of Services to People and that they were logged by Attendance and Welfare Officers. They explained that this was to provide statistics to the Scottish Executive.

34. The Council submitted a copy of the letter which they said was received by Attendance and Welfare Officers. The copy of the letter provided to me was not date-stamped and the Council explained that the lack of clarity surrounding the date was due to the letter having been copied several times. They said, however, that the letter was received within three or four days of it having been sent.

35. Mrs C, commenting on the Council's response to my investigation, said that the Council had provided no proof that the letter was copied to the Services to People Directorate. She said that the template letter contained in the Exclusion Policy had not been used and she believed that this was an attempt to make Miss C's exclusion a personal or secret event, without notifying the Director of Services to People.

(d) Conclusion

36. I note that the letter sent to Mrs C was not the template letter contained in the Exclusion Policy and that the letter did not make clear that a copy would be sent to the Services to People Directorate.

37. However, there was no requirement for School 1 to use the template letter and, while it would have been good administrative practice to make clear that the letter was being copied to the Services to People Directorate, the fact this was not done does not amount to maladministration.

38. Mrs C believed that the letter was not sent and that this was because School 1 wished to cover-up Miss C's exclusion. However, I have seen a copy of the letter received by the Council and, although it does not appear to be date-stamped, I have no reason to doubt that it was sent by School 1 and received by the Services to People Directorate. Certainly, I have seen no evidence to

support Mrs C's view that School 1 wished to keep Miss C's exclusion a secret. In the circumstances, therefore, I do not uphold this complaint.

(e) School 1 failed to give Miss C direct teaching input while she was excluded from School 1 for a month

39. The Council said that support was provided to Miss C while she was excluded in the form of materials. For example, work was sent home for completion which would then be returned to School 1 for marking and comment. They said that the support did not extend to the provision of home tutoring as this was considered to be a short-term exclusion and, therefore, they hoped that it would have been resolved quickly.

40. Section 8 of the Exclusion Policy, under the heading 'Provision of alternative education during an exclusion from school' stated:

'In Stage 1 and Stage 2 exclusions the school will be expected to provide appropriate work for the pupil to complete at home to ensure that the pupil is able to keep up with their peers. Responsibility for the collection of this work lies with the parents.

In Stage 3 exclusions, the school will be expected to provide direct teaching input while the pupil is not allowed to come to school. A senior member of staff in each school should have responsibility for ensuring that this provision is made. Discipline Task Group Funding has been made available to schools to support this ...'

(e) Conclusion

41. School 1's letter to Mrs C dated 27 January 2007, clearly stated that Miss C's exclusion was a Stage 3 exclusion. The Exclusion Policy stated that, in such cases, direct teaching input is required beyond the provision of work for the pupil. That did not happen in this case.

42. Given that Miss C was out of school for about a month, it is possible that her education would have suffered and that this could have been avoided had School 1 followed the Exclusion Policy.

43. In light of my comments above, I uphold this complaint.

(e) Recommendation

44. The Ombudsman recommends that the Council:

- (i) apologise to Miss C for not providing her with the direct teaching input to which she was entitled during her exclusion; and
- (ii) remind relevant officers at School 1 of the requirements of the Exclusion Policy so that, in future, arrangements are made for pupils with a Stage 3 exclusion to be provided with direct teaching input.

(f) School 1 unnecessarily called School 2 on 20 March 2006 despite the fact that Mrs C had already informed the Council's staff that they were moving to another town outwith the Council's area (g) School 1 released Miss C's personal information to School 2 even though, at that time, she did not attend there (h) School 1 intentionally and unnecessarily caused alarm to School 2 by telling them about Miss C and her family on 20 March 2006, which gave a bad impression of Miss C at School 2 where she was not yet a pupil

45. The Council said that on or around 17 March 2006 Miss C had a conversation with a member of staff during which she indicated that she would not be returning to School 1 with effect from 20 March 2006 as she and Mrs C were moving to another town and Miss C would be enrolling at School 2.

46. The Council said School 1 anticipated they would receive some communication from Mrs C to confirm this move. They said that Miss C did not attend School 1 on 20 March 2006, or thereafter, and that, in the absence of confirmation from Mrs C that her daughter had moved to another town, School 1 called School 2 to check that Miss C had enrolled or made contact with School 2 for the purposes of enrolling.

47. The Council said that, in such circumstances, had no contact been made by Miss C with School 2, School 1 would have been under an obligation to act to identify Miss C's whereabouts. They said that had she then not been contactable at the last address which School 1 had for her, it would have been necessary to refer Miss C into the Children Missing From Education process. The Council said they believed it was perfectly appropriate for School 1 to seek to confirm that Miss C had enrolled at School 2.

48. Mrs C, commenting on the Council's response to my investigation, said that, had there been a genuine concern about Miss C being missing from education, School 1 could have called her or used her emergency contact details. She said that there was no reason for School 1 to contact School 2

prior to Miss C's enrolment there and that this telephone call was inappropriate in that it released false and misleading information about Mrs C and Miss C.

(f), (g), (h) Conclusion

49. In the circumstances described by the Council, I do not consider that there was anything inappropriate in School 1 calling School 2 to find out whether Miss C had registered there. Indeed, this action showed School 1 exercising appropriate concern for Miss C's welfare and education.

50. With regard to Mrs C's claim that information was inappropriately released during this telephone call, this cannot be substantiated as there is no record of the telephone conversation. I have, therefore, seen no evidence to support Mrs C's claim that information was inappropriately released during this telephone call.

51. In light of my comments at paragraphs 49 and 50 above, I do not uphold these complaints.

(i) School 1 intentionally sent a record of Miss C's exclusion to School 2 on 21 March 2006 even though the Council had lifted the reference to exclusion from the file prior to 15 March 2006 (j) School 1 failed to inform School 2 that Miss C had returned to School 1 on 27 February 2006

52. The Council said they had already acknowledged that the copy of the Pupil Progress Record (PPR) School 1 had sent School 2 still contained a record of Miss C's exclusion even though the exclusion had been overturned. The Council said they had already apologised to Mrs C and Miss C for this error. The Council pointed out that the PPR was sent out on 20 April 2006, rather than 21 March 2006.

53. Mrs C, in commenting on the Council's response, said that they had not responded properly to the complaint. She said her complaint was not about the PPR being sent to School 2 on 20 April 2006, but about a few pages from the PPR relating to Miss C's exclusion having been faxed or emailed over to School 2 on 21 March 2006. Mrs C believed that as soon as School 2 confirmed to School 1 that Miss C was enrolling there on 21 March 2006, School 1 sent information relating to Miss C's exclusion to School 2, even though the exclusion had been overturned on 15 March 2006. Mrs C said that this was the only thing that could explain why School 2 questioned Mrs C and

Miss C repeatedly about whether the exclusion had been resolved and about whether Miss C had been re-admitted to School 1.

54. In response to my specific enquiry, the Council confirmed that there was no record of any faxes or emails being sent from School 1 to School 2 in relation to Miss C. The only communication that occurred between them at that time was telephone contact to establish Miss C's whereabouts and to indicate that various pieces of material would have to be sent from School 1 to School 2 (such as Miss C's course work). The Council said there was no form of communication about Miss C's exclusion between School 1 and School 2.

(i) and (j) Conclusion

55. Mrs C believed that School 1 sent information about Miss C's exclusion to School 2 and that this was done to tarnish Miss C's reputation. However, I have seen no evidence that School 1 sent any information relating to Miss C's exclusion to School 2 at the time of her enrolment there. Consequently, I do not uphold this complaint.

(k) School 1 failed to enrol Miss C with the Scottish Qualifications Authority (SQA) at the same time as enrolling all other pupils (l) failed to enrol Miss C with the SQA towards the end of April 2006 when School 2 called urgently regarding Miss C's exam timetable

56. The Council said that Miss C was enrolled on 4 November 2005 in line with all other pupils in her year group. They said that she had previously been allocated a Scottish Candidate Number (SCN) by another school and that she was registered with the SQA from that point on.

57. The Council said they had difficulty going back to the 2005 entry, because entries for that year were held in a computer system called Phoenix MIS for schools. In 2006/07, the Council moved over to an entirely different system called SEEMIS.

58. The Council explained that Miss C moved to School 2 after School 1 had established unit and course estimates for her standard grade and other courses. They said that discussion between School 1 and School 2 (and consideration of customary practice) had indicated that it would be best to present Miss C for her examinations from School 1 but using the SQA's 'sitting at' procedure to allow her to sit final course examinations at School 2. The

Council said this was a well-established and wholly respectable procedure and that the SQA were advised of the arrangements.

59. The Council explained that one course, Miss C's Craft and Design course, could not be accommodated into that arrangement because she had not yet completed her practical projects. They said the grade for that course was not usually sent to the SQA until after the Easter holidays in any year. The Council said that School 1 sent the project to School 2 for her to work on and that School 2 gave the project a grade at the end of April 2006 and submitted it to the SQA. School 2 submitted the grade, but did so on an 'estimate amendment form'. The presentation of this form led to a second SCN being incorrectly set up for Miss C. The Council said that it was the submission of this form to the SQA by School 2 that led to confusion regarding Miss C's enrolment. The Council made clear, however, that School 1 had followed all procedures correctly.

60. Mrs C, in commenting on the Council's response to my investigation, said that a letter she had been sent by the SQA proved that her daughter had been enrolled with the SQA on 29 May 2006, rather than in November 2005, as the Council claimed. Mrs C denied that Miss C had been allocated an SCN by another school and that she had, therefore, been registered from that point on. Mrs C maintained that School 1 had purposefully not enrolled Miss C for her examinations and only did so after Mrs C wrote to them demanding an explanation.

61. Mrs C submitted a copy of a letter from the SQA, which included a print-out of Miss C's results. One of the columns on the print-out showed the date on which entries were created; four of them were created in November 2005 while the majority were created on 29 May 2006.

62. Commenting on the print-out of Miss C's results provided by the SQA, the Council said that the centre number next to each subject entry was the centre number for School 1. They said this indicated that the entries had been completed some considerable time before May 2006. The Council said that it was a mystery to them why some of the entries should be dated November 2005 and others May 2006.

63. The Council emphasised that it was the submission to the SQA of an estimate amendment form by School 2 that had triggered a change in Miss C's

registration details. They said this form had created confusion in the SQA system which led to a requirement to re-register Miss C.

(k) Conclusion

64. The evidence I have seen is not fully conclusive either in showing that Miss C was enrolled along with other pupils in November 2005 or that this only happened in May 2006.

65. However, the Council have provided what I consider to be a reasonable explanation of what happened and I have no reason to doubt their assertion that Miss C was enrolled in November 2005. In addition, the Council's assertion that confusion arose as a result of School 2 sending a form to the SQA which led to Miss C being re-registered seems to explain what happened in Miss C's case.

66. Certainly, I have seen no evidence to support Mrs C's implication that School 1 deliberately decided not to enrol Miss C with the SQA in an attempt to discriminate against her.

67. Consequently, while the evidence is not entirely clear, what evidence I have seen - along with the relative strength of the arguments made by the Council on the one hand and Mrs C on the other - lead me, on balance, to consider that Miss C was enrolled along with other pupils in November 2005. Consequently, I do not uphold the complaint.

(l) Conclusion

68. As explained at paragraph 67 above, I find, on balance, that Miss C was enrolled with the SQA in November 2005. As a result, there would have been no need for School 1 to enrol her in April 2006. Indeed, it appears that the problems with Miss C's registration with the SQA were as a result of School 2 sending a form to the SQA which created some confusion in their system. Consequently, I do not uphold this complaint.

(m) School 1 failed to inform the SQA of Miss C's change of address when enrolling her with the SQA at the end of May

69. The Council said it was School 2's responsibility to inform the SQA that Miss C had changed addresses. They said that Mrs C had left Clackmannanshire without leaving a forwarding address. They said, therefore, that it was incumbent upon School 2 to confirm the new address and to inform the SQA where to send any results.

(m) Conclusion

70. Mrs C believed her change of address should have been notified to SQA by School 1. However, given that Miss C had moved to School 2 and that, in any event, no forwarding address had been left with School 1, I agree with the Council that it was School 2's responsibility to inform the SQA of any change of address. Consequently, I do not uphold this complaint.

(n) School 1 failed to provide satisfactory reasons why Miss C was not allowed to go on a school trip in May 2005 and unfairly discriminated against Miss C by not allowing her to go on the trip

71. The Council explained that School 1 undertook a trip every year as part of an Activities Week. They said that in previous years, from time to time, pupils had been accompanied by their parents. They said that pupils had, from time to time, been denied access to activities they wanted to do during Activities Week. The Council explained those situations arose when pupils were judged to be at, or to constitute, a significant risk to themselves or others.

72. The Council said that Miss C joined School 1 in February/March 2005. They said she did not establish close relationships with pupils in the school and there were aspects of her behaviour which had also begun to be a cause for concern to the school.

73. The Council explained that all schools intending to take pupils on the trip in question were advised that there had been incidents, at the trip location, when female pupils had become isolated from their school groups and had been sexually assaulted. The Council said that schools were advised to take account of the possible risks involved in planning visits and were encouraged to ensure that pupils moved around in groups, had access to a mobile telephone and had an accompanying teacher's mobile telephone number.

74. The Council explained that one of the factors they had to take account of in planning the trip was whether pupils had enough friends to ensure they would be moving around in groups. They said that an assessment of whether this was the case was carried out by guidance staff, senior staff and form tutors who knew a good deal about each pupil and the friendship groups they were in.

75. The Council said that concerns about Miss C, exacerbated by general concerns about safety, were thought to be sufficient to justify writing to Mrs C on

27 May 2005 to suggest that Miss C not attend the excursion unless her mother accompanied the trip and indicating that, otherwise, there would be other opportunities for Miss C to attend such an excursion. They said School 1 did not feel able to guarantee her safety which is why they took this action.

76. The Council said all parents of children attending the trip were subsequently sent, on 31 May 2005, a standard letter with information about the excursion's itinerary, what clothes to bring and so on. They said the standard letter was amended to alert parents to particular concerns relating to the trip in question. They submitted a copy of the standard letter from 2004 which showed that the requirement that children should go in groups had been a long-standing one.

77. In commenting on the Council's response to my investigation, Mrs C stated that other pupils were shocked that Miss C had not been allowed on the trip without parental supervision. Mrs C submitted copies of MSN messages (an instant internet messaging service) between Miss C and other pupils to support this point. Mrs C said that these messages also supported the view that Miss C had friends and should have been allowed on the trip. Mrs C stated that School 1's concerns about Miss C being either at risk, or posing a risk to others, were unfounded and that this concern had never been brought to her attention before. She said that the requirement that pupils should have a group of at least six friends had been fabricated by School 1. She believed that the letter sent to parents on 31 May 2005, the day of the trip itself, had been sent in order to try to justify the fact that Miss C had been denied access to the trip on the grounds that she did not have enough friends.

78. In providing further comments, the Council confirmed that the letter from School 1 to parents had been given to children to take home on 31 May 2005.

(n) Conclusion

79. Mrs C believed that Miss C was being unfairly discriminated against by not being allowed on the trip without parental supervision. I have seen no evidence that this was the case. The Council have explained that the decision was taken on safety grounds. They have explained that School 1 considered that Miss C did not have a sufficient social group to ensure her safety. Mrs C disagrees, however, this was a decision for School 1 to take and, in their judgement, it would have been potentially unsafe to allow Miss C on the trip. I note that

Miss C was not excluded and that she had the opportunity to be accompanied by Mrs C.

80. With regard to the letter sent by School 1 to parents on 31 March 2005, I have seen no evidence to support Mrs C's assertion that it was sent in order to justify the fact that Miss C had not been allowed on the trip unaccompanied.

81. In respect of the specific complaint, I consider that School 1's decision was taken fairly and that satisfactory reasons were provided to Mrs C in support of it. Consequently, I do not uphold this complaint.

(o) The Council 'nagged' Mrs C and Miss C to consider enrolling at School 3 and School 4, even though Mrs C had made clear that she wished Miss C to return to School 1 (p) The Council refused to accept Mrs C and Miss C's decision to return to School 1 during a meeting on 22 February 2006; (q) The Council inappropriately called School 4 about Miss C without the consent or knowledge of Miss C or Mrs C; (r) The Council inappropriately requested that Mrs C enrol Miss C at School 4 when Mrs C had never thought of enrolling her there; (s) The Council repeatedly pressed Mrs C and Miss C to reconsider enrolling Miss C at either School 3 or School 4, causing emotional harm to them

82. In response to my investigation, the Council said they felt Mrs C's use of the term 'nagged' was pejorative and inappropriate. They said that since Mrs C, via her email on 8 February 2006, had directly approached School 3 as an alternative for Miss C, it would have been difficult for the Council not to have explored this possibility with her. With regard to School 4 the Council said there was no evidence that this route was seriously considered for Miss C.

83. The Council said that the meeting held on 22 February 2006 was held to establish whether Mrs C was serious about Miss C enrolling at School 3 (although I note that the minute of the meeting stated that its purpose was to discuss Miss C's re-admission to School 1). They said that they took the opportunity to discuss whether Mrs C would consider enrolling her daughter at any other school. The Council said that Mrs C indicated that she wanted Miss C to return to School 1 and that is what happened. The Council said that the meeting was on Wednesday 22 February 2006 and Miss C returned to School 1 on Monday 27 February 2006. They explained that the start of a week was the usual day for pupils being re-admitted following exclusion.

84. The Council said it would be perfectly proper for their Education Service to discuss with their schools the possibility of a place being available for someone who was having difficulty at another school. They said all avenues had to be explored to try to overcome an exclusion situation, particularly when it was strenuously contested by both parties. They said that any possible resolution of such a situation had to be explored, particularly in an examination year. The Council said that it would not be unusual for a Senior Education Officer to approach another secondary school merely to find out what the possibilities would be if exclusion was to remain and could not be resolved. The Council said that the possibility of Miss C attending School 4 was briefly raised by the Council at the meeting on 22 February 2006, but was quickly set aside as Mrs C did not want to consider it.

85. The Council said they strongly contested Mrs C's allegation that there had been an attempt to cause Mrs C and Miss C emotional harm. They said that they simply tried to explore all avenues and lay out the possibilities for Mrs C and Miss C.

86. In commenting on the Council's response to my investigation, Mrs C said that the Council had passed personal information about her and her daughter to School 4. She said that there was a procedure that had to be gone through for school transfers and that it had not been followed in this case. Mrs C said that during the meeting on 22 February 2006 she had repeatedly been asked by the Council to reconsider her decision not to transfer Miss C to School 3 and that it was suggested to her that she go home and think about it again. Mrs C said that it was for that reason that she had sent an email to the Council the following day making clear that she wanted Miss C to return to School 1.

87. Mrs C maintained that she and her daughter had suffered emotional harm as a result of the Council's actions.

(o) Conclusion

88. I have seen no evidence that Mrs C was 'nagged' into transferring to School 3 or School 4 as she claimed. Mrs C's contention rests on the fact that she was sent an email by School 3 after she had told the Council that she did not wish a transfer for Miss C and that the issue was subsequently raised at the meeting on 22 February 2006. However, neither of these actions is unreasonable in my view. While Mrs C may have got the impression she was

being 'nagged' by the Council and School 3, there is no evidence that was the case. Consequently, I do not uphold this complaint.

(p) Conclusion

89. I have seen no evidence that the Council refused to accept Mrs C's decision that Miss C should return to School 1. Indeed, she was re-admitted to School 1 the Monday following her meeting with the Council on 22 February 2006. Consequently, I do not uphold the complaint.

(q) Conclusion

90. The Council have explained the circumstances in which they contacted School 4 and I consider their actions in this regard to be reasonable and appropriate. Mrs C claims that personal information about her and her daughter was communicated by the Council to School 4 during this call, but I have seen nothing to indicate that this was the case. Given that Mrs C was not privy to the call, it is difficult to understand from where her allegation springs. Consequently, I do not uphold the complaint.

(r) Conclusion

91. In the circumstances described by the Council, it was reasonable for the possibility of a transfer to School 4 to be mentioned to Mrs C. Mrs C may have felt that this was inappropriate, but I do not agree. Consequently, I do not uphold the complaint.

(s) Conclusion

92. Mrs C believed that she was repeatedly asked to reconsider a transfer for Miss C, but I have seen no evidence that that was the case. Where a transfer was referred to by the Council it was appropriate for them to do so. Mrs C and Miss C may have felt harmed emotionally, but the evidence I have seen demonstrates that the Council acted appropriately and reasonably. Consequently, I do not uphold this complaint.

(t) School 3 failed to respond to Mrs C's email requesting that Miss C attend School 3; (u) School 4 ignored Mrs C's emails in which she said that she had changed her mind and wanted Miss C to stay at School 1; (v) School 3 inappropriately sent an email to Mrs C requesting a meeting with the rector of School 3 even though Mrs C had already stated that she wanted Miss C to return to School 1; (w) School 3 inappropriately requested, over the telephone, that Mrs C attend a meeting even though she had already informed School 3 and the Council that Miss C wanted to go back to School 1; (x) School 3's actions referred to in complaints (v) and (w) were done with the intention of putting Miss C off returning to School 1, possibly on the instructions of the Council

93. On 8 February 2006, Mrs C emailed the Council, copied to School 3, requesting that Miss C be placed at School 3 on a temporary basis.

94. On 10 February 2006, Mrs C sent an email to School 1, which she also copied to the Council, saying that she wished Miss C to return to School 1 (see paragraph 11 above).

95. On 17 February 2006, the Council telephoned Mrs C and a record of that conversation stated that Mrs C no longer wished Miss C to attend School 3 because she felt that it would be accepting that her daughter had done something wrong. An email from Mrs C on the same date also stated that she had changed her mind about Miss C transferring.

96. On 20 February 2006, School 3 emailed Mrs C saying that they wished to set up a meeting to discuss possible admission. Mrs C replied the same day stating that she had told the Council on 17 February 2006 that she did not want Miss C to enrol at School 3. The same day, Mrs C sent another email to School 3 explaining that she had thought that their earlier email had been from the Council rather than School 3. She went on to say that she would like to enrol Miss C at School 3, but only if she continued to live in Clackmannanshire and if School 1 apologised to her and withdrew the exclusion. She then moved on to say that it would not be a good idea for Miss C to enrol at School 3 for a very short period of time and because she believed it would mean Miss C being permanently excluded from School 1. On 21 February 2006, School 3 replied stating that Mrs C should get in touch with them if she wished to do so.

97. In response to my investigation, the Council said that School 3 had responded to Mrs C's email on 20 February 2006 (see paragraph 96 above).

They said that once Mrs C had indicated she had changed her mind about School 3, a meeting was held and followed by information about the appeal. They said that up until that point there was still potential for finding a negotiated solution. With regard to the allegation that the Council were trying to put Miss C off returning to School 1, the Council pointed out that it was Mrs C who had signalled her intention of contacting School 3 for a transfer. The Council said it was difficult to see how there could have been any intention of putting Miss C off returning to School 1, given that Mrs C seemed to have a plan afoot to transfer Miss C to another school.

98. In commenting on the Council's response to my investigation, Mrs C maintained that the Council had tried to persuade her to enrol at another school because they did not have sufficient evidence to support Miss C's exclusion and they, therefore, wished to resolve the matter by Miss C attending another school rather than an appeal being held. Mrs C said her email of 10 February 2006, referring to Miss C returning to School 1, should have made clear she had changed her mind about a transfer to School 3. Mrs C maintained that because she had told the Council that she wanted Miss C to return to School 1 on 10 February 2006, and because she had stated that she did not wish Miss C to attend School 3 on 17 February 2006, she should not have then received an email from School 3 on 20 February 2006.

99. Mrs C said that the Council had failed to respond to her request for a transfer to School 3 and this was shown by the fact that she only heard from the Council on 17 February 2006 and this was after she had indicated, on 10 February 2006, that she wished Miss C to return to School 1. Therefore, in the time that Mrs C had wanted Miss C to be transferred to School 3 (between 8 and 10 February 2006) Mrs C believed the Council had failed to respond to her.

100. Mrs C said that the Council and School 3 only responded to her request for a transfer when it suited them and after she had made clear she no longer wanted a transfer. She said when she had wanted a transfer, she had received no response and that when she no longer wanted it, she had been harassed about the possibility of a transfer. She repeated her belief that the Council wanted Miss C to change schools so that an appeal could be avoided.

(t) Conclusion

101. Mrs C's argument appears to be that School 3 failed to respond to her in the short time between her asking for a transfer on 8 February 2006 and sending an email to the Council on 10 February 2006 requesting that Miss C be re-admitted to School 1. Her expectation that she should receive a response within that timescale is unreasonable. I also note that School 3 did respond to Mrs C's email dated 8 February 2006 on 20 February 2006. Consequently, I do not uphold the complaint.

(u) Conclusion

102. Mrs C believed that her email of 10 February 2006 should have made it clear to the Council that she wished for Miss C to be re-admitted to School 1 and, therefore, had changed her mind about a transfer to School 3. I do not consider the email makes that clear. Indeed, while the email does request a return to School 1, it does not make any reference to School 3 or to cancelling her request for a transfer.

103. Mrs C told the Council she had changed her mind about a possible transfer on two occasions: during a telephone conversation with a Council officer on 17 February 2006 and in an email to another Council officer on the same date. She subsequently received an email from School 3 on 20 February 2006 asking her about a possible transfer. Mrs C was initially annoyed that she had been written to, given that she had told the Council she no longer wished a transfer, but in her second email on 20 February 2006 she recognised the email had come from School 3 and not the Council.

104. Therefore, while Mrs C's intentions would not necessarily have been clear following her email of 10 February 2006, by 17 February 2006 she had stated on two occasions that she did not wish to transfer to School 3. However, she told this to the Council rather than School 3. It may have been possible for the Council to communicate this to School 3 (who, despite having been sent the original transfer request, were not included in subsequent emails from Mrs C) and this would have avoided them sending Mrs C an email on 20 February 2006. However, the Council, at the time, did not feel they were clear about Mrs C's intentions and the purpose of the meeting arranged for 22 February 2006 sought to clarify the situation.

105. In my view, the Council cannot be faulted for not advising School 3 that Mrs C had told them she no longer wished for Miss C to transfer. Although

Mrs C stated on 17 February 2006 that she no longer wished a transfer for Miss C, I consider that it was reasonable for the Council to wish to hold a meeting with Mrs C to discuss all options before making a final decision.

106. I also consider that it was incumbent on Mrs C to contact School 3 herself to cancel her transfer request. Her inaction in this respect was a factor in her being sent an email from School 3 on 20 February 2006.

107. In all the circumstances, I do not uphold the complaint.

(v) Conclusion

108. As Mrs C has recognised in her second email dated 20 February 2006, she informed the Council rather School 3 that she had changed her mind. Consequently, there was nothing wrong with School 3 having sent Mrs C an email referring to the possibility of a meeting. I do not uphold the complaint.

(w) Conclusion

109. I have seen no evidence that School 3 contacted Mrs C by telephone. Even if Mrs C had been contacted, I do not believe this would have been inappropriate. I do not uphold the complaint.

(x) Conclusion

110. Mrs C believed that the Council wished to prevent Miss C from returning to School 1. However, there is no evidence to support her belief. The evidence I have seen shows that the Council were keen that Miss C should continue her education and took steps to try to ensure this happened. I do not uphold the complaint.

111. 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 implemented.

Explanation of abbreviations used

Mrs C	The complainant
Miss C	The complainant's daughter
The Council	Clackmannanshire Council
School 1	The school Miss C was excluded from
School 2	A school in another Council's area
SQA	Scottish Qualifications Authority
School 3	A school in the Council's area
School 4	A school in the Council's area
The Exclusion Policy	The Council's Policy and Guidelines on Exclusion from School
PPR	Pupil Progress Record
SCN	Scottish Candidate Number