

## Scottish Parliament Region: Central Scotland

### Cases 200800888 & 200800890: North Lanarkshire Council

#### Summary of Investigation

##### **Category**

Local government: Education; Secondary School

##### **Overview**

Mr and Mrs C, and Mr and Mrs D (the Complainants) are two sets of parents who raised a number of concerns about a school trip to France that their daughters (Miss C and Miss D) had attended in October 2007. Their concerns were subsequently investigated by the secondary school (the School) and North Lanarkshire Council (the Council).

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

The complaints which have been investigated are that:

- (a) the planning/management of the trip was inadequate (*upheld*);
- (b) the investigation into an incident on the trip was inadequate in that the School asked students to complete a questionnaire without involving or informing parents; a senior male teacher interviewed female students about sensitive issues; the Head Teacher made unsubstantiated allegations about some of the students and some of them consider that they have been victimised; the matter should have been referred to the police or the other local authority involved; and parents were not kept informed of the progress of the investigation (*partially upheld*); and
- (c) the Council should have offered counselling to the students (*no finding*).

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

The Ombudsman recommends that the Council:

- (i) ensure that the revised draft procedures on excursions and outdoor activities are finalised urgently;
- (ii) ensure that the new procedures contain adequate guidance on agreeing and discussing expected standards of behaviour with parents;
- (iii) consider how they can improve the procedures for notifying parents promptly of changes in the arrangements for school trips and excursions;
- (iv) issue an apology to the Complainants for the failings identified in relation to the investigation into the matter; and

- (v) take steps to ensure that complainants are kept informed whilst an investigation into a complaint is ongoing.

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

## **Main Investigation Report**

### **Introduction**

1. Mr and Mrs C, and Mr and Mrs D (the Complainants) raised a number of concerns about a school trip to France that their daughters (Miss C and Miss D) had attended in October 2007. Twenty-one pupils aged 14-years-old to 17-years-old from the secondary school (the School) went on the trip, which was organised by a teacher. The Complainants made a number of complaints to the School and North Lanarkshire Council (the Council) about the trip, but were unhappy at the way that their concerns were investigated.

2. The complaints from the Complainants which I have investigated are that:
- (a) the planning/management of the trip was inadequate;
  - (b) the investigation into an incident on the trip was inadequate in that the School asked students to complete a questionnaire without involving or informing parents; a senior male teacher interviewed female students about sensitive issues; the Head Teacher made unsubstantiated allegations about some of the students and some of them consider that they have been victimised; the matter should have been referred to the police or the other local authority involved; and parents were not kept informed of the progress of the investigation; and
  - (c) the Council should have offered counselling to the students.

### *Legal and Administrative Background*

3. The role of the Ombudsman is set out in the Scottish Public Services Ombudsman Act 2002 (the Act). Paragraph 10 of Schedule 4 of the Act states that the Ombudsman must not investigate:

'Action concerning—

(a) the giving of instruction, whether secular or religious, or

(b) conduct, curriculum or discipline,

in any educational establishment under the management of an education authority.'

I have not, therefore, investigated these matters during my consideration of the case.

4. In addition, paragraph 8 of Schedule 4 of the Act states that the Ombudsman must not investigate:

'Action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters.'

I did not, therefore, consider any action taken against any of the members of staff involved in the matter during my investigation.

### **Investigation**

5. Investigation of the complaint involved reviewing the documents and comments provided by the Complainants and the Council. I also met Mr and Mrs C and an MSP (the MSP), who was acting on their behalf, to discuss their complaint.

6. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. An explanation of the abbreviations used in this report is contained in Annex 1. A list of the legislation and policies considered can be found at Annex 2. The Complainants and the Council were given an opportunity to comment on a draft of this report.

#### **(a) The planning/management of the trip was inadequate**

7. During my investigation of the matter, I considered the Scottish Government's Good Practice Guide (the Guide) in relation to health and safety on educational excursions. The Guide states that it does not seek to replace local or other professional guidance or regulations and that, where appropriate, local authorities should be the first source of advice. It is designed to help those involved in organising educational excursions to ensure that the students taking part stay safe and healthy. The Guide sets out principles, rather than trying to cover every eventuality, leaving it to leaders' professional and local judgement on how to apply those principles. It states that teachers and other staff in charge of pupils also have a common law duty to act on an educational excursion as any reasonably prudent parent would do in the same circumstances.

8. During my investigation, I asked the Council if the Guide had been taken into account in the planning/management of the trip. In their response, the Council said that their standard circular on educational excursions and visits was written before the publication of the Guide, but that the principles were similar and it focused on health and safety matters. They said that their circular had been revised in line with the Guide and provided a draft copy to me.

9. Mr and Mrs C told me that the trip to France had not been organised through a company experienced in school trips. They said that they would like it made clear if it is proper procedure not to use an educational travel company, as such companies take safety related matters into consideration in their planning.

10. Paragraph 193 of the Guide states that:

'A head of establishment or group leader may decide to organise a package abroad without the help of an outside body.'

The Guide also states that it is good practice that an exploratory visit to the location should be made, wherever possible. It states that if this cannot be done, the group leader should gather as much information as possible on the area to be visited and facilities.

11. I asked the Council why the trip to France was not organised through an educational travel company. In their response, the Council said that it is not a requirement to do so. They said that the School had a history of running a range of trips throughout the world and had arranged visits to France on several occasions in the past. They said that the School's Principal Teacher of Modern Languages was the party leader and was familiar with the area. She arranged the trip by booking flights through an airline company and accommodation through a hotel chain. She also booked a bus to transport the pupils to and from the airport. The Council also said that throughout preliminary discussions, parents did not challenge the arrangements or raise concerns about the fact that an educational travel company was not being used.

12. The hotel that the pupils were staying in was changed and I asked the Council for further information about this. In their response, they said a major sporting event was being held in France at that time and it was decided that for the safety of the pupils, it would be better to stay in another area. They said that it was considered that the new location offered a safer environment. They told me that the selection criteria for the hotel included matters such as location, price, and the fact that it was advertised as suitable for school parties. They have sent me a copy of a tour brochure that was issued to parents. This provides information about the hotel in which the pupils stayed. However, Mrs D has advised me that she did not receive any written information about the arrangements for the trip. She also said that she only became aware that the hotel had changed when she dropped Miss D off for the trip.

13. The Complainants advised me that their daughters had stayed in a ground floor room in the hotel. Paragraph 190 of the Guide states that, where possible, participants should not be lodged in ground floor rooms. During my investigation of the complaints, I wrote to the Council about this. In their response, they said that the School had no control on the allocation of rooms and that this was a hotel decision. They said that the teachers expressed disappointment that the allocation of rooms could not be changed and that a request was made to the hotel to relocate the party, but this was not possible due to the hotel being full. The Council told me that in response to the situation and with the pupils' safety being of prime concern, the two teachers decided to strategically locate themselves for best supervision and to ensure the health and safety of the students. They said that members of staff carried out early morning and evening room checks.

14. I appreciate that the hotel was changed just before the group went on the trip and that the area was busy at that time. The Council have also told me that the hotel is especially suited to school trips. However, there are good reasons why the Guide states that, where possible, participants should not be lodged in ground floor rooms.

15. The Complainants also commented on the ratio of teachers to pupils. Paragraph 203 of the Guide states that:

'Staffing ratios for visits abroad are difficult to prescribe as they will vary according to the activity, the participants' age and sex, the location, and the efficient use of resources. A minimum ratio of 1 adult to 10 pupils is a general rule of thumb but at least two of the adults should be teachers in the case of groups of school pupils. There should be enough adults in the group to cover an emergency. There should be a minimum of two adults on every excursion. Mixed gender groups should have at least one male leader and one female leader.'

16. The Council have told me that 21 pupils and two teachers went on the trip. The application for approval for the trip states that the group would be composed of 21 pupils and that the ratio would be one adult to 10.5 pupils. The Council's circular on educational excursions and visits at that time said that a ratio of one adult to 12 pupils was an appropriate norm. However, it also stated that the Head Teacher may wish to consider more generous supervision in

some instances taking account of the nature of the activities proposed during the visit.

17. The Guide also states that it is particularly important that parents are given the opportunity to meet the leaders and others who will be taking the participants overseas. It states that:

'Before residential visits, or when the participants are to travel abroad or engage in adventure activities, parents should be encouraged to attend a briefing meeting where written details of the proposed excursion should also be provided. The information given should be sufficiently detailed to ensure that parents can make an informed choice about participation, bearing in mind that many activities have a high level of perceived risk, but a low level of real risk.'

The Guide also states that there should be alternative arrangements for parents who cannot attend or for whom English is not their first language.

18. The Council told me that, in line with normal practice, a parents' evening was held at the School on 25 September 2007. They said that a presentation was given at the meeting and a range of issues were discussed, such as the practical aspects of the trip, contact details, itinerary and expected standards of behaviour. They said that this also provided an opportunity for parents to raise any concerns or points needing clarification.

19. The Guide also states that parents need to be aware that the leaders and other adult supervisors on the visit will be exercising the same care that a prudent parent would. It states that information should be given to parents regarding:

'... standards of behaviour expected in respect of, for example, alcohol, sexual behaviour, smoking and general group discipline including prohibited items. This information may take the form of a code of conduct which parents should sign.'

20. I asked the Council what the policy was in relation to alcohol on the trip for teachers and pupils. In their response, the Council said that no specific policy on alcohol was provided, but a code of conduct and expectations on general behaviour were explained. They said that 'as part of the cultural experience and under supervision, the students, if they so chose, were allowed to have one

small glass of wine as part of a meal'. They said that the same restrictions were placed on the members of staff.

21. I have considered the findings of the Council's own investigation into the matter. This states that there was no discussion regarding the consumption of alcohol by staff or pupils during the course of the trip. It states that on at least one occasion, both members of staff allowed the pupils the choice of having one alcoholic drink, wine or beer, with their meal. It also states that staff were seen consuming alcohol at meal times and that some pupils perceived that a teacher was under the influence of alcohol. The findings state that on at least two occasions, some pupils were found to have alcohol in their room. This was confiscated and disposed of and the individuals concerned were reprimanded.

22. Having fully considered the matter, it is clear to me that alcohol caused problems on the trip. Some of the pupils on the trip were as young as 14-years-old. I consider that, at the very least, the decision that pupils were allowed to have a drink with a meal should have been discussed with parents and communicated to them explicitly. I have noted that the Council wrote to the MSP on 21 April 2008 and acknowledged that the liaison with parents before the visit was inadequate. They said that parents should have been better briefed about the arrangements and fully involved in the setting of conduct ground rules for their individual children.

23. I also asked the Council about the policy on remote supervision on the trip, as the Complainants had raised some concerns about this. Mr and Mrs D said that parents had no idea that there was going to be remote supervision and they would not have sent Miss D on the trip if they had known this. In their response, the Council said that pupils provided mobile telephone numbers for contact to all staff concerned. All meals were taken in a designated area and the students were instructed to remain together in this area. Pupils could choose within this location where and what to eat. Designated meeting points and times were also arranged. The Council also said that supervision on the underground system was organised to avoid any young person being separated. They said that this system was put to the test on one occasion and was executed satisfactorily and successfully.

24. The Guide states that the aim of excursions for some participants may be to encourage independence and investigative skills, and some of the time on excursions such as trips abroad and fieldwork may be unsupervised. It states



that the group leader should establish during the planning stage of the excursion whether the participants are competent in remote supervision and should ensure parents have agreed this part of the excursion. The Guide states that the group leader remains responsible for participants even when not in direct contact with them and that parents should be told before the excursion whether any form of remote supervision will take place.

25. The Guide also states that during any time that remote supervision takes place, the group leader must ensure that participants are aware of the ground rules and are adequately prepared. The size of each group should also be considered. The Guide states that, as a minimum, participants should have the following:

- telephone numbers and emergency contacts if lost;
- money;
- maps and plans and any other information for them to act effectively;
- location of local telephones and the appropriate coins;
- a knowledge of how to summon help;
- a knowledge of out of bounds areas or activities;
- identity cards and a rendezvous point.

26. I have considered the findings of the Council's own investigation into the matter. This states that there is evidence that a significant number of the students on the trip felt that they were not always supervised to an acceptable level. This led them to feel somewhat anxious and concerned on occasion and this was accentuated by the fact that some of the pupils were as young as 14-years-old.

27. The Council's report on the matter states that parents had been given the impression that although meals may not always be taken together, care would be taken to ensure that pupils were always in close proximity to staff. However, there was evidence of a general lack of supervision at meal times and this allowed pupils to access, consume or purchase alcohol. The report states that staff were not always aware as to whether the students had in fact been able to access food. It states that there was evidence on one occasion of a pupil becoming separated from the group. That said, the report then states that, in general, the arrangements for supervision of the pupils was satisfactory with rooms being checked last thing in the evening and first thing in the morning.

*(a) Conclusion*

28. I am satisfied that it was acceptable for the School to arrange the trip without the use of an educational travel company. I also consider that the School acted in the best interests of the students when they changed the hotel, although not all of the parents received notification of this or a copy of the brochure in advance of the trip.

29. I consider that the party leader should have checked if the available rooms were on the ground floor before the hotel was booked. I have not seen any evidence that she did so and, during the Council's investigation into the matter, they found that no risk assessment was made of the alternative accommodation. That said, I was pleased to note that the draft circular on excursions and outdoor activities provided to me by the Council states that, where possible, participants should not be lodged in ground floor rooms.

30. The School should have arranged a more generous staffing ratio for the party in view of the fact that the trip was to a large city in which a major sporting event was being held. However, the Council's new draft guidance on excursions and outdoor activities advises that a minimum of one adult to ten pupils is required for residential visits and trips abroad and there should be at least one male leader and one female leader for mixed gender groups.

31. The School also failed to discuss with parents the standards of behaviour expected on the trip, particularly in relation to the consumption of alcohol. Although it is recognised that remote supervision on school excursions can help to develop independence in students, it is essential that they are prepared and capable. There is evidence that a number of the pupils felt that they were not always supervised to an acceptable level. In view of the location of the trip and the age of some of the students, I do not consider that adequate supervision was provided throughout the visit.

32. In view of all of the above, I uphold the complaint. That said, I am pleased to note that the Council have revised their own guidance on educational excursions and visits. Most of the areas of concern that I have highlighted above are addressed in the new guidance, although I consider that further details are required regarding agreeing and discussing expected standards of behaviour with parents. I am also satisfied that the Council have learned lessons from the complaint. It should be stressed, however, that no amount of planning can guarantee that a trip or excursion will be incident free.

(a) *Recommendations*

33. The Ombudsman recommends that the Council:

- (i) ensure that the revised draft procedures on excursions and outdoor activities are finalised urgently;
- (ii) ensure that the new procedures contain adequate guidance on agreeing and discussing expected standards of behaviour with parents; and
- (iii) consider how they can improve the procedures for notifying parents promptly of changes in the arrangements for school trips and excursions.

**(b) The investigation into an incident on the trip was inadequate in that the School asked students to complete a questionnaire without involving or informing parents; a senior male teacher interviewed female students about sensitive issues; the Head Teacher made unsubstantiated allegations about some of the students and some of them consider that they have been victimised; the matter should have been referred to the police or the other local authority involved; and parents were not kept informed of the progress of the investigation**

34. The Complainants also complained about the subsequent investigation by both the School and the Council into an incident that occurred on the trip. I do not consider that it is necessary to provide details of the incident in this report, as it involves young people and is of a sensitive nature. This aspect of the complaint concerns the investigation into the matter and the details of the incident itself are not relevant.

35. Having considered the concerns raised by the Complainants, I asked what action was taken by teachers on the trip in relation to the incident. In their response, the Council said that although the teachers were aware of an argument amongst some of the pupils, despite repeated efforts to ascertain the cause, they did not establish the reason for the argument until they returned home. However, the complainants have told me that they believed that the teachers were aware of the incident. Mr and Mrs D also told me that they believed that Miss D had been intimidated not to report the incident at the time.

36. The Council said that they believed that none of the pupils involved contacted their parents regarding the matter whilst on the trip. The Council also said that the students concerned did not provide any information to teachers at the time to warrant contacting parents. They stated that mobile telephones were removed from two individuals due to squabbling and arguing. The Council

said that this was for a short time to relieve tension, calm the situation and prevent the argument continuing by text message. They said that the mobile telephones were returned a short time later. The pupils returned home on 16 October 2007. The Council have stated that it was not until the party returned home that sufficient information was divulged by the pupils to warrant a level of concern. Mr and Mrs D have told me that their daughter said that one pupil had her mobile telephone removed in order that she could not telephone her parents.

37. In order to obtain further information about the trip and to establish the views of the pupils, the School asked the pupils involved to complete a questionnaire. This asked a number of questions about the supervision and availability of alcohol on the trip. Mr and Mrs C complained that the School asked students to complete a questionnaire without involving or informing parents. They said that they considered that it was insensitive to expect young people to make judgements on adults and that a police authority in another area had stated that it was an example of bad practice. Mr and Mrs D have told me that a considerable amount of investigation had been done before the questionnaires were completed in late December 2007.

38. During my investigation of this aspect of the complaint, I considered the Council's response to the MSP about this matter. I noted that they said that the questionnaire was completed on an anonymous basis and they did not accept that the process was intimidating or that the non-involvement of parents was inappropriate.

39. I asked the Council if they accepted that parents should have been involved in the completion of the questionnaire. They said that the questionnaires were designed around the concerns originally expressed by Mr C. They said that a system was set up to avoid upset, prevent collusion and also to guarantee anonymity on the completing of the form. The Council said that all of the students who had been on the trip agreed to complete the questionnaires on a voluntary basis. They said that the questionnaires were returned in an individual sealed envelope. They said that Miss C was absent at this time and the investigating officer was contacted by Mr C. He asked for a copy of the questionnaire to be sent to him. The Council have stated that the questionnaire was posted out and completed by Miss C in the presence of Mr and Mrs C. Mr and Mrs C feel strongly that they should have been involved and that the questionnaire was sent to them only because they complained.

40. Mr and Mrs C also said that the Council's Social Work Services should have been involved and that the investigation should have been carried out by child protection specialists, as it involved the health and safety of children on an educational excursion. They said that they considered that this constituted a failure by the Council to provide a service. Mr and Mrs C also complained about the delay in referring the matter to the Social Work Services.

41. The Council have told me that the Learning and Leisure Services' Child Protection Officer was notified of the matter on 31 October 2007. Their Social Work Services were also notified on 7 November 2007. However, Social Work Services contacted the Head Teacher on 15 November 2007 and indicated that it was not regarded to be a child protection issue. The Council have also told me that the Learning and Leisure Services' Child Protection Officer was available throughout the investigation for support and assistance.

42. Section 7(1) of the Scottish Public Services Ombudsman Act 2002 states that:

'The Ombudsman is not entitled to question the merits of a decision taken without maladministration by or on behalf of a listed authority in the exercise of a discretion vested in that authority.'

I have not identified any maladministration in relation to the decision that the matter was not a child protection issue. I am, therefore, unable to question the merits of this decision. Although Social Work Services were not notified of the matter until 7 November 2007, the Learning and Leisure Services' Child Protection Officer was notified on 31 October 2007.

43. The Complainants also complained that a senior male teacher was asked to interview female students about sensitive issues. Mr and Mrs C wrote to the Council about this on 12 November 2007. They said that their daughter had informed them that the questions were embarrassing and made her feel very upset and humiliated. After investigating the matter, the Council issued a response to Mr and Mrs C on 4 March 2008. They said that the interview arrangements should have been by a female teacher and that parental involvement throughout would have been helpful.

44. The Complainants also said that the Head Teacher from the School made unsubstantiated allegations about some of the pupils and some of them

consider that they have been victimised. Mr and Mrs C said that they were unhappy that the Head Teacher said at a meeting on 6 November 2007 that blame lay with the conduct of the pupils. They said that he stated that he was disappointed that their daughter had not been responsible enough to get herself out of the situation to tell a teacher. He also said that she had alcohol in her room and that her punishment was to be banned from attending school trips supervised by the two teachers involved. Mr and Mrs D also said that they were unhappy about allegations that the Head Teacher had made about their daughter at a meeting. They said that the allegations were unsubstantiated.

45. The Council have told me that there are no records of the meetings with parents. I asked them if any blame had been apportioned to Miss C and Miss D. In their response, the Council said that the Head Teacher had opened a series of interviews with students and their parents by expressing disappointment. They said that this was because the explanations provided by pupils were not consistent.

46. The Council told me that the Head Teacher also said that the teachers on the trip were disappointed that pupils had not shared information with them about the incident in order that they could address the situation. The Head Teacher said that the teachers had expressed the view that they did not feel able to accept the students on any future trips and he would not expect any of his staff to take pupils on trips who could not guarantee the appropriate standard of behaviour required. The Council also said that the Head Teacher expressed disappointment with the behaviour of the pupils in respect of consuming alcohol and not immediately informing teachers of the incident. In their response to a draft of this report, Mr and Mrs D said that this is not a factual representation of the meeting.

47. We asked the Council if Miss C and Miss D were punished in any way. The Council have also assured us that there were never any sanctions issued to Miss C or Miss D and that both have since participated on school trips. I have noted that the Head Teacher wrote to Mr and Mrs C on 3 April 2008 and said that Miss C was not excluded from participating in school excursions and he would encourage her to put herself forward for any trips that interested her.

48. I have already commented on the inadequate supervision on the trip. It also appears that some pressure may have been placed on Miss C and Miss D

by another pupil not to divulge details of the incident to teachers. However, the Ombudsman is excluded from investigating:

'Action concerning—

(a) the giving of instruction, whether secular or religious, or

(b) conduct, curriculum or discipline,

in any educational establishment under the management of an education authority.'

49. In view of this, it would not be appropriate for the Ombudsman to comment on the Head Teacher's remarks on the conduct of the pupils. However, I have noted that the Council's own investigation found that the statement read out by the Head Teacher to the parents of the pupils was intended to offer a consistency of approach, but led to the perception among parents that all of the pupils were to be treated and judged similarly despite varying degrees of culpability. I have also seen that the Council tried to arrange a meeting with Mr and Mrs C on 13 June 2008, although Mr and Mrs C decided not to participate in the meeting. The Council said the meeting would have given Miss C the unconditional apologies for any wrongful judgement and punishment.

50. The Complainants also stated that the matter should have been referred to the police and another school/local authority in England that had pupils involved in the incident. They said that the matter was eventually referred to these organisations, but they stated that they were concerned about the delay.

51. Correspondence that I have seen relating to the complaint states that the Complainants reported the matter to the police on 20 November 2007, as the Council had not referred it as they had promised. I asked the Council if they had promised either the Complainants or the MSP that the matter would be referred to the police. In their response, the Council said that no such promise was made to the parents or MSP. They said that they referred the matter to the police after the Head Teacher contacted their Legal Services for advice on the way forward. They said that the police then contacted the School about the matter on 21 November 2007 and on 18 December 2007. The Council also said that in November 2007, Mr C informed them that he had reported the matter to the police. In response to a draft copy of this report, the MSP said that this was promised to the parents. He also said that it is not true to say that the Council contacted the local police. He said that he and the parents contacted the local police and they then contacted the Council.

52. I have also noted that the Council wrote to Mr and Mrs C on 6 June 2008 and said that they were willing to accept that contact should have perhaps been made with the other school, but they suspected that any information received would not have added to the available evidence. They said that the matter was referred to the local police force and they had collaborated fully with the police's enquiries.

53. The Council have told me that they did not initially have sufficient information to pursue the matter with the appropriate education authority or school. They said that pupils were interviewed about the matter but were unable to provide specific details. The Council told me that had the pupils provided full information, they would have pursued the matter with the appropriate school and education authority.

54. Mr and Mrs C have told me that the other school/education authority are now aware of the matter and I do not consider that there is any further action for the Council to take in relation to this aspect of the complaint. The Complainants are also unhappy with the actions of the local police force, however, it is not within the Ombudsman's remit to consider complaints about a police force.

55. The Complainants also complained that they were not kept informed of the progress of the investigation. Mr and Mrs C sent a letter of complaint to the Council on 12 November 2007. The Council's Housing and Social Work Services acknowledged receipt of the complaint on 23 November 2007. This letter outlined four issues that were to be considered. The Housing and Social Work Services said that these fell within the remit of the Council's Learning and Leisure Services and they had arranged for a senior officer to meet them to discuss their concerns. The Council's Learning and Leisure Services subsequently wrote to Mr and Mrs C stating that a meeting had been arranged for 26 November 2007. After the meeting, in response to enquiries from them, the Council sent emails to Mr and Mrs C on 28 November, 2 December and 5 December 2007.

56. The MSP then wrote to the Council's Chief Executive on 6 December 2007. The Chief Executive responded to the MSP on 21 December 2007, stating that a formal investigation was underway. Mr C telephoned the Council's Education Officer on 30 January 2008. The Education Officer wrote to him on the following day to confirm the issues that they had



discussed. She also said that the Head of Service had indicated that he would contact them in the near future when he had finalised his judgement.

57. On 5 February 2008, the Head of Service wrote to Mr and Mrs C and said that the investigation had been completed and he had received a copy of the formal report from the investigating officer. He said that he was considering this and would be happy to meet them to discuss it.

58. Mr and Mrs C wrote to the Head of Service on 22 February 2008 and said that they would welcome the opportunity to meet to discuss the matter, but first required a written response to the issues they had raised in their letter of 12 November 2007. The Head of Service then wrote to Mr and Mrs C to outline the Council's findings on 4 March 2008. Mr C wrote to the Head of Service on 14 March 2008 and said that he required a prompt response to all of the issues raised in his letter of 22 November 2007.

59. The Head of Service wrote to Mr C on 27 March 2008. He said that his view was that all of the concerns had been investigated and responded to. He stated that if Mr C did not agree, he would appreciate an indication of where gaps remained. Mr and Mrs C wrote to the Head of Service on 19 May 2008 to set out their concerns and dissatisfaction with the Council's letter dated 4 March 2008. The Head of Service responded to them on 6 June 2008. He referred to a meeting on 13 June 2008. Mr and Mrs C wrote to the Council again on 10 June 2008 and said that they did not want to meet on 13 June 2008. The Council responded to this letter on 11 June 2008.

60. Mr and Mrs D wrote to the Head Teacher on 24 November 2007. However, the School failed to issue a formal reply to this letter. Mr and Mrs D then wrote to the Council on 7 March 2008 and a response was issued to them on 26 March 2008. In this letter, the Council apologised for the failure to issue a formal reply to Mr and Mrs D's letter of 24 November 2007, but said that the Head Teacher had written to them to invite contact to discuss the matter. Mr and Mrs D did not consider that the response adequately addressed their complaints and queries and wrote to the Council again on 14 April 2008 and on 10 June 2008. The Council issued a response to them on 19 June 2008.

*(b) Conclusion*

61. The Children (Scotland) Act 1995 states that, in general, a child of 12 years of age or more shall be presumed to be of sufficient age and maturity

to form a view. I have fully considered Mr and Mrs C's complaint that the School asked students to complete a questionnaire without involving or informing parents and their comments that a police authority in another area said that it was an example of bad practice. However, I do not consider that it was inappropriate for the Council to ask students to complete a questionnaire, in order that they could investigate the matter further, without involving or informing parents. That said, the matter involved sensitive issues and the female pupils should have been interviewed by a female teacher.

62. I am unable to comment on the Head Teacher's remarks on the conduct of the pupils. However, I am satisfied that the Council have discussed the matter with the local police force, although I accept that they did not do so immediately. I do not consider that the Council were also required to contact a police force in England, which was responsible for the area in which the other school fell. The Council have told me that they did not initially have sufficient information to pursue the matter with the appropriate education authority or school. I do not consider that the Council's actions in relation to this aspect of the complaint amounted to maladministration.

63. In relation to the complaint that the Complainants were not kept informed of the progress of the investigation, although I have noted that the Council wrote to the MSP on 21 December 2007, I have not seen any evidence that updates on the matter were sent to Mr and Mrs C from 5 December 2007 until 30 January 2008. The Council also clearly failed to keep Mr and Mrs D informed of the progress of the investigation, although I have noted that they apologised for this in their letter of 26 March 2008.

64. In view of the above, I partially uphold this aspect of the complaint to the extent that the female pupils should have been interviewed by a female teacher and the Council failed to keep parents informed of the progress of the investigation.

*(b) Recommendations*

65. The Ombudsman recommends that the Council:

- (i) issue an apology to the Complainants for the failings identified in relation to the investigation into the matter; and
- (ii) take steps to ensure that complainants are kept informed whilst an investigation into a complaint is ongoing.

**(c) The Council should have offered counselling to the students**

66. Mr and Mrs C requested counselling and support for Miss C in their letter to the Council dated 12 November 2007. Mr and Mrs C also said that the Head Teacher had offered the services of the Parent Partnership Officer, but they declined this, as they did not consider that she was suitably qualified. The Council's Housing and Social Work Services wrote to them on 23 November 2007 and said that this fell within the remit of Learning and Leisure Services and that one of their senior officers would meet them to discuss this. The Complainants met the Council's Education Officer on 26 November 2007. She acknowledged that Miss C needed support and said that this would be available to her. In the Council's subsequent letter to Mr and Mrs C of 4 March 2008, they said that action taken by them included counselling and support.

67. The MSP asked the Council what support was being provided to the students involved in the incident. The Council wrote to the MSP on 7 March 2008 and said that the relevant pupils had been supported by guidance staff. They said that the pupils identified the staff member they felt would best support them and this was arranged. The Council also said that the services of an Educational Psychologist were offered and they were separately supported by a Child Protection Officer.

68. Mr and Mrs C have stated that Miss C was never offered support by any guidance staff as a result of the incident and was not asked to choose a member of staff she could trust and confide in. They also said that Miss C had never had any support from the Child Protection Officer and that they had not had any support from the Council. However, the Council wrote to them on 6 June 2008 and said that the Education Officer had reported that support from the Educational Psychology Service and School Guidance Service was offered. They also said that they believed that the School offered the service of a youth counsellor. The Council said that parents were asked to consider these options, but did not submit a request.

69. Mr and Mrs D have stated that Miss D was not offered any counselling and was offered little in the way of formal support from the School. They said that an appointment with an Educational Psychologist was offered to Miss D, but they considered that this was an entirely inappropriate use of such a resource and was not the kind of support their daughter needed.

70. I asked the Council for details of any counselling offered to Miss C and Miss D and any evidence in relation to this. In their response to me, they said that after discussion and agreement with the parents concerned, counselling was offered at school and authority level. They said that the services of an Educational Psychologist were also offered. They said that the Principal Teacher - Pupil Support was identified by Mr and Mrs C as an appropriate member of staff to support Miss C, as she had a positive relationship with him and Mr and Mrs C trusted that he would act in a sensitive manner. They also said that he offered Miss C the support of the Youth Counselling Service. I have also noted that the Council's report on their investigation into the matter states that support was offered by the Parent Partnership Officer and pastoral staff after a period of time.

71. The Council have also sent me a print-out from the Pastoral Care IT System. This shows that the Principal Teacher – Pupil Support met Miss C on 21 November 2007 and offered her support. Miss C said that she did not require further support at that time. The Principal Teacher – Pupil Support said that he was happy to arrange support for her if this was required in the future.

*(c) Conclusion*

72. There is a clear disagreement between the Complainants and the Council about whether counselling was offered to the students and about what sort of support they required. The Council have provided details of counselling offered to Miss C and Miss D, but other than the print-out from the Pastoral Care IT System, they have not provided any evidence to support this. The Complainants clearly dispute the comments made by the Council on this aspect of their complaint. It would have been helpful if the Council had maintained a record of the other action taken in relation to offers of counselling. Mr and Mrs D have stated that an appointment with an Educational Psychologist was offered to Miss D. There is some evidence, therefore, of some support being offered, although Mr and Mrs D did not consider that this was appropriate.

73. I have carefully considered this aspect of the complaint, but there is a clear difference of opinion regarding whether counselling was offered to the students. There is insufficient clear objective evidence for me to reach a decision on the matter. Mrs D has stated that she does not consider that any further action is required on this aspect of the complaint. In view of the lapse of time since the original incident, I have decided that it would not be appropriate to ask the

Council to take any further action in relation to this aspect of the complaint. I make no finding on this aspect of the complaint.

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

**Explanation of abbreviations used**

The Complainants	Mr and Mrs C, and Mr and Mrs D
Miss C	Mr and Mrs C's daughter
Miss D	Mr and Mrs D's daughter
The School	The secondary school that Miss C and Miss D attend
The Council	North Lanarkshire Council
The MSP	An MSP acting on behalf of the Complainants
The Act	The Scottish Public Services Ombudsman Act 2002
The Guide	The Scottish Government: Health and Safety on Educational Excursions: A Good Practice Guide (2004)

**List of legislation and policies considered**

The Scottish Government: Health and Safety on Educational Excursions: A Good Practice Guide (2004)

The Children (Scotland) Act 1995

