

Case 200903102: The Council

Summary of Investigation

Category

Local government: education; school

Overview

The complainants (the Solicitors) brought a complaint to my office on behalf of their clients, the aggrieved (Mrs A) and her son (Mr A). Mrs A raised a number of concerns about a school trip that Mr A attended in February 2009. Mrs A's concerns were subsequently investigated by the Council. There was also an investigation undertaken by the police into an alleged incident on the trip involving a number of pupils, including Mr A, and a report was sent to the Procurator Fiscal.

Specific complaints and conclusions

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

- (a) manage and investigate the complaint properly and within the time frame specified (*upheld*);
- (b) respond adequately to the complaint (*upheld*);
- (c) provide Mrs A with sight of relevant documents (*not upheld*); and
- (d) indicate when their recommendations would be enforced (*upheld*).

Redress and recommendations

The Ombudsman recommends that the Council:

- | | <i>Completion date</i> |
|--|------------------------|
| (i) should, when preparing risk assessments for off-site activities and education trips, include more detail on the supervision arrangements, in particular, during 'free time' and bed times; | 18 January 2012 |
| (ii) introduce a policy which formalises the action taken at paragraph 16 to deal with situations such as this, involving allegations of a serious nature; | 18 January 2012 |
| (iii) ensure that adequate guidance is given to staff on managing complaints which are high risk, complex or of a sensitive nature and are likely to take longer | 18 January 2012 |

- than the stated timescales; and
- (iv) when making recommendations in response to a complaint, should state the date by which the recommendation will be implemented.

17 August 2011

Main Investigation Report

Introduction

1. In February 2009, 23 secondary pupils (six S1 pupils, seven S4 pupils, two S5 pupils and eight S6 pupils) from a school (the School) went on a residential trip to a recreational centre. The aggrieved (Mrs A) raised a number of concerns about that trip which was attended by her son (Mr A). She complained that the Council had failed in their duty of care, supervision and protection of Mr A while on the trip. Mrs A made a number of complaints to the School and the Council, but was unhappy at the way her concerns were investigated. A separate investigation into an alleged incident on the trip, involving Mr A, was also undertaken by the police and was referred to the Procurator Fiscal.

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

- (a) manage and investigate the complaint properly and within the time frame specified;
- (b) respond adequately to the complaint;
- (c) provide Mrs A with sight of relevant documents; and
- (d) indicate when their recommendations would be enforced.

Legal and Administrative Background

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

'Action concerning-
the giving of instruction, whether secular or religious, or
conduct, curriculum or discipline,
in any educational establishment under the management of an education
authority'

4. I have, therefore, not investigated these matters during my investigation of the complaint.

5. I must also explain that it has not been my role to investigate the alleged incident on the trip, which has been investigated by the police with a referral to the Procurator Fiscal, but to consider whether the Council adequately

investigated the matters raised by Mrs A and whether they followed their processes when reaching their decisions on this case.

Investigation

6. The investigation of the complaint involved reviewing the information provided by the Solicitors. I have also considered carefully the extensive documentation provided by the Council including the Fact Finding Investigation Report prepared by their Investigating Officer, together with information obtained as part of his investigation. This included the notes prepared following the interviews held with all relevant staff and the documents provided in response to the Investigating Officer's request to the School for information. In addition, I have considered the minutes of the meetings held with Mrs A, the correspondence with Mrs A, the briefing note prepared for the Chief Executive and the Council's letter of 31 May 2010, detailing the action taken by them in response to Mrs A's complaint.

7. I have also considered the Council's Procedure Manual 3/21 – Child Protection – Procedures and Guidance, Manual 3/11; Exclusion from School, and the policy on School Excursions and Educational Visits: Procedure Manual No 3/17 (the Manual). This document clarifies the procedures to be adopted by schools when undertaking school excursions or visits. The document states that:

'School excursions and educational visits can involve an element of risk. While organisers of activities cannot give guarantees of safety to participants (or their parents) it is essential nevertheless that all possible precautions should be taken to ensure the safety of all involved. The expectation of the authority would be that leaders responsible for young persons would undertake the same care which would be expected of a prudent parent.'

8. I have also 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 reasonable prudent parent would do in the same circumstances.

9. Further, I have considered the Council's new Educational Excursions and Off-Site Activities: A Code of Practice, which was approved by the Council's Education Committee on 23 March 2010. The procedure takes account of current best practice and regulations. Finally, I have been provided with a copy of the School's Her Majesty's Inspectorate of Education Report dated October 2007 and the Follow-Through Report dated October 2009.

10. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. The Solicitors and the Council were given an opportunity to comment on a draft of this report.

11. As complaints (a) and (b) are closely related, I have decided to consider these complaints together. Mrs A raised a number of issues under these complaints. In particular, these related to the adequacy of supervision on the trip; appropriateness of accommodation; quality of risk assessments carried out for the trip; adequacy of communication with parents; failure to advise her of the alleged incident; and failure to temporarily remove the pupil involved in the alleged incident from the School while the allegation was investigated. I have taken these issues into consideration during my investigation.

(a) The Council failed to manage and investigate the complaint properly and within the time frame specified; and (b) The Council failed to respond adequately to the complaint

12. A residential School trip to a recreational centre took place on 9 February to 13 February 2009. Twenty three secondary pupils (six S1 pupils, seven S4 pupils, two S5 pupils and eight S6 pupils) participated on the trip and were accompanied by four staff members. No incidents were reported to the School on the pupils' return from the trip. The School was closed on 16 and 17 February 2009 for the February holiday. 18 February 2009 was a staff in-service day. Due to the School being closed, a parent had contacted the Council's Social Work Department, who had contacted the police. The parent then contacted the School on 18 February 2009 and a meeting was arranged for 23 February 2009 with that parent. Also on 18 February 2009, the School was contacted by the police, who indicated that they were conducting an investigation into an alleged incident on the School trip. The police contacted Mrs A on 22 February 2009 and Mrs A contacted the School on

23 February 2009 and a separate meeting with Mrs A was held that day. Mrs A advised the School that Mr A would not be returning to the School for the foreseeable future, as a pupil accused of involvement in the alleged incident was still attending the School, and home tuition was arranged for Mr A. The Council explained that they agreed to arrange tuition during school hours rather than out of school hours tuition as was the standard policy.

13. The Council have explained that the School staff were unaware at that point in time that an incident had happened on the trip and, as a result, did not accept Mrs A's contention that they had failed in their duty to inform her about the alleged incident.

14. On 23 February 2009, the Head Teacher of the School (Officer 1) contacted the Council's Inclusion Officer (Officer 2), who informed the Head of Education (Officer 3) immediately. Officer 2 attended the School on 24 February 2009 to gather information from the relevant staff.

15. Mrs A raised a complaint with the Council on 18 March 2009, in relation to the School trip. Officer 3 acknowledged the complaint on 24 March 2009 and explained that he was investigating the complaint. In response to the complaint, Officer 3 then met with Mrs A on 27 March 2009 to discuss Mr A's return to the School. It was highlighted at the meeting that, as there was an ongoing police investigation, there were limitations to what could be discussed. During April 2009, the School provided Mrs A with requested documents and discussed in writing and at meetings Mr A's return to the School.

16. As indicated above, a pupil accused of involvement in the alleged incident on the trip was still attending the School, however, Officer 3 had given an assurance to Mrs A that Mr A would not come into contact with that pupil. He also confirmed that systems and procedures, discussed with Mrs A, had been put into place to make sure Mr A would be safe if he returned to the School. From the documents provided it is clear that Mrs A continued to have a number of concerns surrounding Mr A's safety should he return to the School.

17. The Council explained that Officer 3 was not fully aware of all the facts about what had occurred on the trip in relation to the incident investigated by the police, as the police had not shared with the Education Service what they believed had happened. However, when that pupil was eventually charged by the police, Officer 3 was in a stronger position to seek to secure another

placement for the pupil. Officer 3 also confirmed by email on 17 and 21 April 2009 to Mrs A that, as the Procurator Fiscal's determination had not been concluded, there were aspects of the Council's investigation which would be outstanding. He explained that there were a number of issues they would be able to investigate and that these would be taken forward.

18. Officer 3 formally responded to Mrs A's complaint on 29 April 2009. He indicated that an initial investigation had been carried out at the School. He explained that, due to police criminal investigation procedures, until the police investigation had been concluded the Council were unable to conclude their investigation. However, he refuted Mrs A's allegation that the staff at the School had failed in their duty of care for Mr A while on the trip.

19. On 7 May 2009, Officer 3 responded to a further letter from Mrs A dated 1 May 2009. He stated that, as there was to be a meeting on 8 May 2009, the issues raised should be discussed at that meeting. At that meeting Officer 3 again confirmed that they were not able to investigate certain issues until the police investigation was completed. They did, however, discuss certain matters which the Council felt were not part of that investigation.

20. Mrs A wrote to the Chief Executive on 18 June 2009 requesting a meeting with him to discuss her continuing concerns. This was arranged for 8 July 2009.

21. A further meeting was, however, also held with Officer 3 on 25 June 2009. On 26 June 2009, the Procurator Fiscal dropped the charges against the pupil who had been moved by the Council to another school in April 2009.

22. Mrs A wrote again to the Chief Executive on 5 July 2009. In that letter, Mrs A raised a number of issues including her concern that Officer 3, having only carried out an initial investigation, was in his letter of 29 April 2009 able to refute the allegation that the School had failed in their duty of care of Mr A. Mrs A also stated she was concerned that, at the meetings on 26 March and 24 April 2009, Officer 3 had

'... stopped the conversation about the issues surrounding the School trip and solely wanted to talk about the arrangements for getting Mr A back to School and that we would be given time to discuss these issues at a later date ...'

23. Mrs A met with the Chief Executive on 8 July 2009. At this meeting, the Chief Executive agreed to investigate the complaint under stage 4 of the Council's complaints procedure. Mrs A was also given the opportunity of raising any additional issues not previously raised. A copy of the minute of that meeting was sent to Mrs A on 22 July 2009 for her comments, which the Council received on 2 September 2009. The Council confirmed that the amendments suggested by Mrs A were taken into account in the Council's investigation of her complaint.

24. On 27 August 2009 the Investigating Officer requested to carry out the stage 4 review wrote to the School and the Education Department asking for comments on the issues raised by Mrs A and for relevant documents. On 29 September 2009, a response from the School was received and interviews with the relevant teachers were carried out during October 2009. This was approximately eight months after the staff had attended the trip.

25. The Council provided their substantive response to Mrs A's complaint on 2 December 2009. The Chief Executive explained that the Investigating Officer had taken into consideration all the documentation available to him, including all correspondence, had interviewed a range of staff from the School, including those who participated on the trip and Officer 1. He had also interviewed the two officers who were involved in compiling the information and response to the stage three complaint, Officer 3 and Officer 2. Further, he had spoken to the Education Service's two quality development officers who had an overview of the School as a whole. In addition, he had used the Manual.

26. The Chief Executive responded to the various issues raised by Mrs A. In particular, to her concerns surrounding the lack of supervision on the trip; the suitability of the venue; the lack of communication with parents; and the adequacy of the risk assessments undertaken to inform the safety of the pupils on the trip. While the Council did not accept Mrs A's position that the School had failed in their duty of care, they explained that they had made a number of recommendations in response to her complaint.

27. Mrs A remained dissatisfied with the Council's response to her complaint and stated that she did not accept that the Council had adequately investigated the issues raised by her. She maintained her position on the issues raised with the Council, in particular: that there had been a lack of supervision by school staff on the trip and pupils were not regularly checked; that the venue was

unsuitable and staff would not be able to hear pupils shouting for help; that the quality of risk assessments undertaken was inadequate and staff had been unable to identify risks while on the trip. This related to the failure of the School to advise all staff about previous allegations concerning some of the pupils attending the trip. Mrs A also raised her continuing concern that inaccurate information was provided by the Council; that there had been a lack of communication with parents prior to the trip and, as a result, parents did not have sufficient information to enable them to make an informed choice with regard to their child's attendance on the trip. Finally, she continued to raise her concern in relation to the length of time Mr A did not attend school (seven weeks) as a result of her concerns about the proposed arrangements for his return to the School, including her concern that the pupil involved in the alleged incident had not been removed from the School.

28. The Council, in response to my complaints reviewer's formal enquiries, confirmed that they did not accept that there had been a lack of supervision on the trip, in particular around the supervision when pupils were in their dormitories. The Council maintained that staff had constantly checked the pupils while they had been in the dormitories. To support their position, they referred to the statements provided by staff members involved in the trip and the sheets which highlighted the involvement of staff throughout the days they were at the centre. They also did not accept that staff would not hear the pupils shouting for help. The Council maintained their position that the staff had followed the School and Council policies and guidance. They also confirmed that all staff who attended the trip had no concerns about the suitability of the centre as a residential venue, which was nationally licensed, and that staff could hear any noises from one room to another. Further, in response to Mrs A's concern on this matter, the Council had arranged for her to visit the centre.

29. The Manual states that the Head of the school must:

'ensure that adequate supervision has been arranged given the nature of the group activity. A ratio of at least one adult to twelve pupils would be an appropriate norm. In the case of a mixed group, leaders of both sexes should be the norm, but the head of school may wish to consider appropriate supervision taking account of the nature of the individual excursions or visits.'

30. In this case, due to the range of additional needs of the children in the party going to the centre, the School decided that a staff ratio of approximately

1:6 was an appropriate supervision level. The ratio during activities was usually one member of staff to three pupils.

31. While the Council did not accept that there had been a lack of supervision on the trip, following their consideration of Mrs A's complaint they agreed to provide standard templates for special schools which would record staff's preparations/discussions in relation to dormitory and activity decisions, including when pupils' dormitories were checked. In addition, a new code of practice procedure plus an additional monitoring sheet for the School had been approved. I have been provided with copies of these. As part of an in-service training day held at the School, all teaching staff were given the forms and were involved in discussions on how they should be used. They also looked at a broad range of subjects, including staff roles and responsibilities, on call duties, planned rest time for staff during trips, location of staff sleeping rooms and choice of pupil accommodation. The training also looked at how to improve staff planning processes for all school excursions. Further, a training session was provided for all teaching staff to examine risk assessments for excursions.

32. The Council have told me that they do not accept Mrs A's contention that staff were unable to identify risks in the preparation for the trip and while on the trip. The Council stated that the party leader (Depute Head Teacher) and another teacher had been aware of previous unfounded allegations involving pupils and that this information had been taken into account in planning for the trip. A number of meetings had been held to discuss which pupils would be suitable for which rooms, which pupils should not share rooms with one another, and the activity groupings for pupils. The Council explained that they had followed the guidance as laid out in the Manual in relation to risk assessing all aspects of participating in a residential excursion.

33. To support their position, the Council referred me to the information which had been provided to Mrs A on the preparations which had been carried out regarding the trip, which included a risk assessment of the facilities undertaken by the centre. This had been provided to the School prior to the trip. The School had carried out their own risk assessment, which included: information on pupils; general overview of each pupil's additional support needs; relevant information from home; level of intervention required; staff comments about individual pupils' temperament where appropriate; allocated dormitory; activities group staff member; and whether the individual pupil had been on a residential trip previously. Further, a generic Health and Safety Risk Assessment had

been compiled by the Education Service's Officer responsible for outdoor activities and educational visits for a residential stay at a staffed outdoor centre. Along with these documents, I have been provided with copies of the working sheets recording the discussions undertaken by staff when preparing for the trip.

34. From the statements provided by staff interviewed by the Council's Investigating Officer, I noted that not all staff had received specific training to deal with pupils in a residential setting. However, the Council indicated that all the staff who attended the trip were extremely experienced with many years experience in teaching and/or supporting children/young people with a range of additional support needs, and that they had attended a number of residential trips. They had attended a wide range of courses/seminars both in the School and externally, to build on their already professional knowledge and experience. The Council explained that these would have included child protection courses, child development courses, welfare of children and families, health awareness courses. In the School, the teachers would have received training on a number of school policies including child protection. The child protection training for session 2008/09 had been delivered on the first in-service day when the School had re-opened in August 2008. The Council also explained that in the School training for child welfare/protection was an ongoing matter, in that it was raised at staff meetings and guidance meetings on a regular basis. The School was constantly carrying out risk assessments not only for school activities, but as a result of the individual needs of the pupils at the School. The Council stated that the aim of the School was to keep pupils safe, well and protected at all times.

35. The Council stated that they considered it would be wrong to assume that, because some members of staff were not aware of information about certain pupils, they were unable to identify risks. They confirmed that the staff knew all the pupils extremely well - they had either taught the pupils for a number of years or supported them through various activities both inside and outside the School. The Council stated that it was part of their jobs as teachers or support staff in a special establishment to recognise any issues which might be troubling pupils under their charge. The Council explained that all staff had confirmed, when questioned by the Council's Investigating Officer, that there were no reasons to suspect that any pupil was at risk in any of the dormitories. The Council stated that if any of the staff had felt that any pupil was at risk they would have done something about it.

36. While the Council did not accept that staff were unable to identify risks, they recommended at the conclusion of their investigation into Mrs A's complaint that Officer 3 discuss with senior managers within the School that pupil information, unless particularly confidential, should be shared with staff who have regular contact with the pupils. This recommendation has now been actioned by the Council. In addition, as part of the recommendations approved by the Council following Mrs A's complaint, training was provided on the new forms, risk assessments, staff planning and the revised procedures introduced. Further, the Council have explained that their new Procedural Manual approved by the Council in March 2010 included guidance on risk management and requires staff to ensure that all excursions have been risk assessed and all significant risks managed appropriately.

37. The Council accepted, in response to Mrs A's concerns, that she had received conflicting information from staff about the trip. The Council explained that various officers, not involved in the trip to the centre, had tried to answer additional questions raised by Mrs A before the Council's investigation had been completed. The Council accepted that this caused confusion and, while the staff were trying to be helpful, they unfortunately provided mis-information. However, as part of the Council's investigation into the complaints raised by Mrs A, they were satisfied that this matter had been clarified. I have been provided with a copy of the interview notes, from which I understand the matter was also discussed with Mrs A when she visited the centre.

38. I note that the Council's Investigating Officer in concluding his investigation considered that after clarifying Mrs A's complaint with her no more meetings should have been held until the Council had fully investigated Mrs A's complaint. The Investigating Officer considered that the extra meetings and communication with Mrs A concerning her original complaint had resulted in the investigation being compromised, as officers tried to answer additional questions raised before they had fully completed their investigation.

39. Mrs A had also complained that parents had not been provided with adequate information prior to the trip. The Council have confirmed that, in the Manual, there was no specification that schools were required to hold parent evenings prior to trips/excursions. In this case, a range of information was handed out from the School and it was open at any time for parents to contact staff if they wished more details about any aspect of the residential stay. The

information letter sent to parents indicated that parents should contact the School if they had any difficulties or queries.

40. As a result of Mrs A's complaint, the Council have agreed that, before any residential excursion, special schools will hold parents' evenings. This would be followed up with more detailed written information being passed to the parents of the children/young people involved in excursions. In line with this decision, a parents' meeting was held in the School for a subsequent trip in June 2009. Parents were given the opportunity to ask a range of questions in connection with the specific needs of their children. In addition, the Council have approved the recommendation that new forms be produced for the recording of what care support is provided for a pupil. They explained that these forms were used on the June trip. The Council have confirmed that support care plans would only be completed if the child required individual support, in discussion with parents.

41. My complaints reviewer asked the Council to comment on Mrs A's concern that the pupil involved in the alleged incident had initially remained at the School. The Council explained that Mrs A had taken the decision to withdraw Mr A from the School and had requested that a number of conditions be met before Mr A would be allowed to return to the School. Officer 3 had advised Mrs A that he wanted Mr A back into school and had met the majority of the conditions requested by Mrs A, apart from the condition that the pupil be removed from the School. Officer 3 had explained to Mrs A that he could not discuss the placement of another pupil with her. The Council explained that, during the time Mr A was out of the School, a teacher was provided to teach Mr A at home. Officer 3 had also given an assurance that Mr A would not come into contact with the pupil and that systems and procedures had been put in place to make sure Mr A would be safe if he returned to the School. Once all the conditions had been met Mr A returned to the School.

42. My complaints reviewer also asked the Council to comment on whether they had handled Mrs A's complaint in line with their complaints policy, as Mrs A had raised some concerns about this. The Council accepted that they had not, in this case, kept to the timescales set within the Education Services complaints policy and apologised for this. They explained that this was due to the extensive range of issues raised by Mrs A both in her letters of 18 June 2009 and 5 July 2009, as well as the points raised during the meeting with the Chief Executive on 8 July 2009. The Council's Investigating Officer was also required to re-scope the various points to be investigated, as a result of Mrs A's letter of

2 September 2009, which was in response to the Chief Executive's letter of 22 July 2009. The Council explained that they did keep Mrs A aware of the difficulties in responding within the timescales. I am aware that letters were sent to Mrs A on 22 July, 21 September, 19 October, 30 October and 13 November 2009. In addition, a number of meetings were held with Mrs A.

(a) Conclusion

43. During my consideration of this complaint, while I have noted the remedial action taken by the Council in response to their own investigation of Mrs A's complaint, I have identified a number of areas which remain of concern to me in relation to the Council's handling of this complaint.

44. I am satisfied that the Council gave due consideration to the level of supervision on the trip overall as part of their investigation of Mrs A's complaint. They concluded that the level of supervision was adequate in terms of the staff-pupil ratio. The Council have indicated that staff constantly checked on pupils while they were in the dormitories and have provided sheets highlighting the general involvement of staff during the time at the centre. I am pleased that the Council have now introduced the use of forms in schools providing provision for children with additional support needs, which will record staff's preparations/discussions including when pupils' dormitories are checked. However, I consider that there was a lack of record-keeping on the trip to evidence the supervision carried out, in particular, when the children were in the dormitories.

45. While I recognise that there was no requirement on the School to hold a parents' evening prior to trips, I was concerned that, given that the School provided provision for children with additional support needs, a parents' evening was not required under the schools procedures for such trips. I note that, as a result of their investigation of this complaint, the Council have now decided that, before any residential excursion, special schools will hold parents' evenings with follow-up written information.

46. In relation to Mrs A's concern that staff on the trip were unable to identify risks due to a lack of relevant pupil information, I have noted that, as part of their investigation, the Council provided evidence to show that during the preparation for the trip, consideration was given to the allocation of rooms and which pupils should not share with one another; as well as the activity groupings for pupils. However, I was concerned that, in this case, not all relevant

information relating to some pupils was shared with all the staff on the trip. I consider that all staff should be aware of the potential risks to all pupils to allow informed decisions to be made around safety and security. I am pleased that the Council have now decided that, unless particularly confidential, pupil information should be shared with staff who have regular contact with pupils.

47. In terms of the arrangements for Mr A returning to the School, Officer 3 advised Mrs A that the pupil involved in the allegation would be kept separate from Mr A, should Mr A return to the School and that he eventually took the decision to secure another placement for that pupil after the police had formally charged him. However, I can understand the reasons for Mrs A's concern about Mr A returning to the School while this pupil remained at the School, which led to a seven week period of absence. Ultimately, the decision to separate pupils in an educational establishment or to exclude a pupil remains a matter for the Council and I accept that exclusion should be a last resort. However, I am concerned that there is no formal process in place to address situations where allegations of a serious nature are made involving pupils and those pupils remain at school.

48. Overall, in managing and investigating the complaint, the Council recognise that they did not investigate the complaint within their own agreed timeframe. Although attempts were made to manage and communicate the position to Mrs A, a clearer timescale for providing a full response could have been provided. The fact that not all aspects of Mrs A's complaint could be investigated at one time because of the involvement of the police, and then subsequently the Procurator Fiscal, led to confusion over what aspects of the complaint could be looked at and when. In this situation it may have been more appropriate to only look at the matter of Mr A's return to the School rather than attempt to comment on and reach conclusions about some aspects of Mrs A's complaint and not others, when the issues were interlinked and therefore difficult to consider separately.

49. In view of the above, I uphold complaint (a).

(a) *Recommendations*

50. I recommend that the Council:

- (i) should, when preparing risk assessments for off site activities and education trips, include more

Completion date

18 January 2012

detail on the supervision arrangements, in particular, during 'free time' and bed times;

- (ii) introduce a policy which formalises the action taken at paragraph 16 to deal with situations such as this, involving allegations of a serious nature; and

18 January 2012

- (iii) ensure that adequate guidance is given to staff on managing complaints which are high risk, complex or of a sensitive nature and are likely to take longer than the stated timescales.

18 January 2012

(b) Conclusion

51. There is evidence to show that the Council have made clear efforts to respond to Mrs A's complaints and to take remedial action to address any areas for improvement identified. However, prior to the Council concluding its investigation into Mrs A's concerns, due to the ongoing police investigation, the Council refuted Mrs A's allegation concerning the care provided to Mr A while on the trip (see paragraph 18). It is of concern to me that the Council made such a statement although all the facts in the case had not been clarified.

52. In view of the above, I uphold complaint (b).

(b) Recommendations

53. Given the recommendations made above, I make no further recommendations here.

(c) The Council failed to provide Mrs A with sight of relevant documents

54. From the Council's records, I am aware that the Council provided Mrs A with a copy of the layout of accommodation at the centre by email dated 14 April 2009. This was followed on 7 May 2009 with the following documents:

School's Risk Management document;

blank school risk assessment;

Generic Risk Assessment for residential stay at a staffed outdoor centre;

Generic Risk Assessment for Educational visits to Museums, Art Galleries, Science Centres, Visitor Centres and similar Attractions; and

the centre's Risk Assessment.

55. In the Council's letter of 2 December 2009, they also detailed the information concerning Mr A which was contained in the risk assessment the

School had carried out. The Council explained that they could not provide a copy of the actual risk assessment, as this contained information on other pupils and they felt they would have breached data protection legislation in relation to other pupils. The Council confirmed that they provided all the information they were able to provide. Having considered the risk assessment, I am satisfied that the information contained in that, in relation to Mr A, was as detailed in the Chief Executive's letter dated 2 December 2009. The Council further explained that it would be difficult to provide copies of the working sheets prepared by staff during their discussions. They did not feel that the information would be meaningful if the names were removed. This was a discretionary decision for the Council.

(c) Conclusion

56. In view of the above, I do not uphold this complaint.

(d) The Council failed to indicate when their recommendations would be enforced

57. The Council on 31 May 2010 provided details of the action taken by them to implement the recommendations detailed in their letter of 2 December 2009 to Mrs A. The Council have explained that, while the Chief Executive's letter dated 2 December 2009 had not detailed the actual dates when the recommendations would be implemented, it was usual practice that action points in connection with investigations were undertaken as quickly as possible. They explained that a memo had been sent to Officer 3 on 8 December 2009 requesting that he take forward the recommendations with the appropriate personnel.

(d) Conclusion

58. While the Council have indicated that they do implement recommendations as quickly as possible, I consider that the Council should state the date by which any recommendation will be implemented. I uphold this complaint.

(d) Recommendation

59. I recommend that the Council:	<i>Completion date</i>
(i) when making recommendations in response to a complaint, should state the date by which the recommendation will be implemented.	17 August 2011

60. The Ombudsman asks that the Council notify him when the recommendations have been implemented.

Ombudsman's comment

61. It should be stressed that no amount of planning can guarantee that a trip or excursion will be incident free and it is clear that, in this case, there was an allegation of a serious nature on the trip which has caused considerable concern to parents, pupils and staff. My investigation has highlighted concerns in relation to a lack of formal process surrounding the handling of issues raised during this case. To support staff, pupils and parents planning for such events in the future there needs to be robust policy at national level for Education authorities to refer to. I will approach the Scottish Government asking that they consider the current government guidance in this area taking into account the concerns I have identified.

Explanation of abbreviations used

The School	The school attended by Mr A
Mrs A	The aggrieved
Mr A	The aggrieved's son
The Solicitors	The complainants
The Manual	Schools Excursions and Educational Visits: Procedure Manual No.3/17
The Guide	The Scottish Government: Health and Safety on Educational Excursions: A Good Practice Guide (2004)
Officer 1	Head Teacher
Officer 2	Inclusion Officer
Officer 3	Head of Education

List of legislation and policies considered

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

The Children (Scotland) Act 1995

The Council's Child Protection – Procedures and Guidance

The Council's Exclusion from School policy

The Council's Schools Excursions and Educational Visits: Procedure Manual No 3/17

The Council's Educational Excursions and Off-Site Activities: A Code of Practice