

Scottish Parliament Region: Mid Scotland and Fife

Case 200801931: Perth and Kinross Council

Summary of Investigation

Category

Local government: Education; Defrayment of School Transport Costs

Overview

In April 2007, the complainant (Ms C), the mother of four children, was made unintentionally homeless from her home in a village some distance from Perth. Ms C and her partner applied to Perth and Kinross Council (the Council) for rehousing. The family were first accommodated in a bed and breakfast guesthouse in the village but were later allocated the temporary let of a Council house in Perth in August 2007. Ms C and her partner were anxious that disruption to their children's education was minimised. Ms C stated that when she made enquiry of the costs of transport to the village for two of her children, she was told that her outlay would be met.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) Ms C was not properly informed directly by the Council about the travel costs for two of her children (*not upheld*);
- (b) when Ms C asked a NHS Health Visitor working with homeless families, she claims she was assured that travel passes would be issued for her children but that she would have to meet her own costs of accompanying those children (*no finding*); and
- (c) the Council's decision to fund Ms C's children's travel costs from the time of her complaint failed to address the substantial costs she had already incurred (*not upheld*).

Redress and recommendation

The Ombudsman recommends that the Council inform him of the outcome of their reassessment of policy.

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

Main Investigation Report

Introduction

1. A complaint was received by the Ombudsman on 17 October 2008 from Ms C, the mother of four children. In April 2007, Ms C and her partner had been made unintentionally homeless from their home in a village outside Perth. The family had been placed in bed and breakfast accommodation in the village but from August 2007 they were temporarily housed in a furnished tenancy in Perth. Ms C decided that education arrangements for her youngest children should not be disrupted and sought assurances from Perth and Kinross Council (the Council) with regard to the transport costs associated with her youngest children continuing to attend a primary school and a nursery in the village. Towards the end of the 2007/08 school year Ms C, who had received no reimbursement of costs, raised the issue of the travel costs and other matters with the Council. She was not satisfied with the Council's response and complained to the Ombudsman's office.

2. The complaints from Ms C which I have investigated are that:
- (a) Ms C was not properly informed directly by the Council about the travel costs for two of her children;
 - (b) when Ms C asked a NHS Health Visitor (the Health Visitor) working with homeless families, she claims she was assured that travel passes would be issued for her children but that she would have to meet her own costs of accompanying those children; and
 - (c) the Council's decision to fund Ms C's children's travel costs from the time of her complaint failed to address the substantial costs she had already incurred.

Investigation

3. The investigation is based on information provided by Ms C and the Council's responses to my enquiries. I spoke with Ms C on the telephone and reviewed Council policies and procedures. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Ms C and the Council were given an opportunity to comment on a draft of this report.

4. Ms C, her partner, and her four children were made unintentionally homeless from their previous home in a village outside Perth in April 2007. The family were initially accommodated in bed and breakfast accommodation by the

Council. While this was inconvenient for the family, Ms C and her partner had family support which allowed the existing school arrangements to continue for the remaining term of the 2006/07 school year. On 23 August 2007, they were allocated the temporary let of a furnished property in Perth.

5. Ms C's daughter (then in her last year of primary education) and second son attended a primary school and her youngest son an associated nursery respectively in the village. In the knowledge that their schooling could be disrupted again when permanent housing was found, Ms C was anxious that the three children continued to attend the nursery and primary school respectively in the village. Since the village is not served by a direct bus service from the area of the temporary let, this entailed travel on two buses. Ms C informed me that she was advised by the Council that she could expect to remain in temporary accommodation for approximately nine months. She says that she was advised at this time by the Health Visitor that her children's travelling costs would be met by the Council. She stated that, on that basis, she accepted the temporary accommodation. She calculated, that in the school year 2007/08 she incurred about £900 in travel costs in taking her children to the village in the morning, returning home herself, and travelling back to the village in the afternoon to bring them home. Based on what she says she was told previously, she sought reimbursement from the Council.

6. Ms C's initial complaint to the Council dated 25 May 2008 concerned a number of issues relating to her homelessness and to Ms C's temporary accommodation (anti-social behaviour, drug abuse, the role of wardens in her temporary accommodation, rent arrears and housing benefit, and prospects of rehousing), as well as the issue of travel costs. Ms C's letter was acknowledged on 6 June 2008 by a Service Development Officer (Officer 1). Officer 1 and his colleague discussed the complaint with Ms C on 18 July 2008. On 22 August 2008, a response was sent to Ms C by the Executive Director, Housing and Community Care (the Executive Director).

7. The Executive Director's response of 22 August 2008 detailed the action taken by the Council on the various matters, indicated that there was a shortage of suitable four apartment houses throughout the Council's area, and that while Ms C was relatively well placed on the housing list and that every effort was being made to rehouse the family in permanent accommodation, turnover was

low and that generally only one month's notice could be given of the availability of a property for offer. The letter also clarified issues relating to housing benefit.

8. With regard to travel costs, the Executive Director stated that it had been agreed by Education and Children's Services that the service bus fare will be paid to enable Ms C's daughter to attend the primary school in the village but that her son, who is under five-years-old, was able to travel to his nursery school on the same bus service, free of charge. The Executive Director regretted that the travel concession would not extend to cover the fares of an adult accompanying the children. Ms C was advised to keep bus tickets and to submit these on a monthly basis to a named officer in Education and Children's Services for reimbursement. She was also given details of the further stage in the complaints procedure to the Chief Executive.

9. On 3 September 2008, Ms C spoke with the Complaints Officer (Officer 2) and she identified five points in a letter of the same date only one of which, the issue of travel costs, is relevant to the current investigation. On that point, Officer 2 understood Ms C to be complaining that reimbursement of travel costs should be backdated beyond the date of the Executive Director's response of 22 August 2008. Officer 2 spoke again with Ms C on 16 September 2008 when Ms C explained that a member of staff from the NHS had advised her previously that she would be entitled to free travel passes.

10. A final response on the complaints was sent by the Council's Chief Executive on 24 September 2008. This dealt with the four housing related issues. With regard to travel costs, the Chief Executive stated that it was not Council policy to reimburse transport costs for children who do not attend their catchment school (Annex 3). The Chief Executive noted that places were available in Ms C's child's catchment area primary school in Perth. As an exception, Education and Children's Services had agreed that the service bus fare for Ms C's child attending the primary school in the village could be claimed back. The Chief Executive confirmed that the exception had been made with effect from 22 August 2008. Education and Children's Services stated that they were unable to refund any bus fares prior to this date. The Chief Executive referred to Ms C's telephone conversation with Officer 2 on 16 September 2008. The Chief Executive stated that she was unable to comment on the advice she was given by the Health Visitor as it was not from the Council. She signposted Ms C to the Ombudsman.

11. Ms C complained to the Ombudsman on 14 October 2008. She stated that the Health Visitor who advised her of the travel arrangements is a person who specifically deals with homeless families. She found it unacceptable that it had taken the Council so long to advise her that she had previously been provided with inaccurate information. She calculated that she was out of pocket to the sum of approximately £900. Ms C subsequently confirmed to me that her complaint to the Ombudsman concerned the travel costs issue and not the other matters previously raised in correspondence with the Council.

12. Subsequent to our decision to investigate, Ms C informed us that she had been offered rehousing by the Council on a permanent basis and moved to her new home on 26 January 2009.

(a) Ms C was not properly informed directly by the Council about the travel costs for two of her children

13. I requested information from the Council on the issue of direct advice given by the Council to homeless families and to Ms C in particular. A response was provided by the Council's Homeless Operations Manager (Officer 3).

14. Officer 3 stated that the Council's Homeless Service provides an assessment of needs through their Resettlement Service. This is a formalised process that involves identifying the customer's needs and their support requirements. The Resettlement Service tries to meet these needs, either directly or through signposting or linking to other agencies or services where specialised support can be delivered. With regard to customers having travel issues, Officer 3 stated that these would often be identified by Resettlement officers in the assessment process.

15. In the particular instance, Officer 3 stated that Ms C identified to both the Resettlement Team and the Temporary Accommodation Team from the outset that she had extreme difficulties with meeting the travel costs to maintain her (youngest) children within the settled school (and nursery) they were attending. Officer 3 stated that the lead officer in Ms C's case (a resettlement officer in the Resettlement Team (Officer 4)) tried without success to obtain travel assistance through Education and Children's Services, and made a further attempt to obtain assistance through a community care grant from the Department of Works and Pensions and from another trust fund. All these routes were unsuccessful. Officer 3 stated that Officer 4 had at no time given any promise or led Ms C to expect that the travel costs would be met.

16. In commenting, Officer 3 identified that, because a settled school environment might be the only area of stability a homeless child might have and Ms C's case was not exceptional, there appeared to be a clear need for the Homeless Service and Education and Children's Services to look at the issue of travel costs to maintain homeless children within their settled school environments. Officer 3 pointed out, however, that the Homelessness legislation and the relevant Code of Practice did not make any specific requirement for a Homeless Service to provide travel costs to maintain children attending a school where they were settled. The Homeless Code of Practice (see Annex 2) does provide guidance to local authorities to arrange travel and associated costs with regard to locating and moving customers into temporary accommodation. These travel costs were, in Officer 3's view, the responsibility of Education and Children's Services.

(a) Conclusion

17. I am satisfied that Ms C incurred substantial costs as a result of her decision that three of her children should continue to attend educational establishments in the village where they were settled. It is clear to me also that at the time Ms C took up occupation of the temporary let on 23 August 2007, Education and Children's Services had no policy to reimburse and no direct means of funding any transport costs flowing from Ms C's decision that her middle two children continue to attend the primary school and her youngest child the nursery in the village when there were available places in the catchment area primary school. Ms C informed me that she made her decision to accept the temporary let on the basis that she expected funding for transport of her children to and from the village would become available. The cost was not inconsiderable but a substantial part of the figure she quotes would have been her own fares for two return journeys from Perth to the village.

18. I see no evidence that Ms C was wrongly advised by the Council. She has, suffered financially in the absence of a Council policy to assist her with her costs. That is a matter of discretionary policy, which I further address at paragraph 23. I do not uphold the complaint.

(b) When Ms C asked the Health Visitor, she claims she was assured that travel passes would be issued for her children but that she would have to meet her own costs of accompanying those children

19. The Council's comments on this head of complaint were provided by Officer 2. She stated that, as Complaints Officer, she had tried to contact the Health Visitor in September 2008 but had been unable to speak to her or to email her as she was on long-term sick leave. She had felt it inappropriate to have mentioned the long-term sick leave in her response to Ms C. Officer 2 had asked Council officers who had worked with the Health Visitor, what role if any she had played in relation to school transport costs etc. The answer she had been given was that, in her NHS role, the Health Visitor had previously tried to assist people with grants for travel and had spoken to Education and Children's Services on their behalf. Officer 4, who worked with the Health Visitor, informed me that she believed that what the Health Visitor would have said was that she would try to obtain a travel permit from Education and Children's Services for the children as she had sometimes had success in the past with this type of request.

20. Officer 2 confirmed that in terms of the dynamics of fielding such queries, she would always seek to contact someone who was giving advice about the Council's services. This had proved difficult in this case since the person worked for another organisation and was on long-term sick leave.

(b) Conclusion

21. In general the Council should not be considered directly responsible for the actions of an employee of another body or organisation. It would I feel be wrong in the absence of direct evidence from the Health Visitor herself, to reach a decision on this complaint. The indirect evidence at paragraph 19 suggests that the Health Visitor would have pursued the matter on Ms C's behalf but that unless funds were available elsewhere, say from the Department of Works and Pensions in the form of community care grant or a trust (paragraph 15), then ultimately the approaches would not have been successful. I make no finding on this complaint.

(c) The Council's decision to fund Ms C's children's travel costs from the time of her complaint failed to address the substantial costs she had already incurred

22. Ms C explained to me that the receipt of the Stage 2 response from the Executive Director (paragraph 7 and paragraph 8) coincided with the start of the

new school year. Her youngest child, who had previously attended nursery, reached primary school age, and he was enrolled at the local primary school in the area of the temporary accommodation along with his brother who was then entering Primary 3. Ms C's daughter completed primary school in the village and transferred to a local secondary school in Perth which was not her catchment area school and required a single bus ride. From the start of the 2008/09 session, therefore, Ms C no longer incurred costs in transporting her children to and from the village. The Council's offer to meet costs incurred after 22 August 2008 was not retrospective, and proved to be of no practical financial benefit to Ms C.

23. The Council's comments on this complaint were provided by the Council's Operations Manager, Education and Children's Services (Officer 5). Officer 5 stated that in terms of the relevant policy, Education and Children's Services would not have provided transport (or reimbursed Ms C's costs) because she did not qualify in terms of the policy.

24. Officer 5 recalled that she and members of her team who arrange home to school transport had met with Officer 4 on 15 April 2008. That meeting clarified issues which required to be taken forward. It was decided that the cost of providing additional transport beyond that currently being provided by Education and Children's Services would require to be identified as an 'expenditure pressure' and agreed by two service committees, and Education and Children's Services would require to be consulted on the decisions being made regarding placements for pupils in homeless accommodation. Until an agreement was given for funding to be made available to provide transport costs in circumstances which could not be met by the existing arrangements, the existing arrangements would continue. In the particular circumstances, Education and Children's Services indicated that they were only prepared to reimburse the ongoing costs (after 22 August 2008) because they were specifically asked by the Executive Director in order to seek to resolve the complaint.

25. Prior to the completion of the investigation, Housing and Community Care reassessed their homeless transport policy (Annex 3). That reassessment now enables the Council's Education and Children's Services to review their home to school transport policy with a view to having it in place for the start of the 2009/10 school year.

26. The Council's Education and Children's Services agreed that in full and final settlement of this complaint they would make a goodwill payment to Ms C. The payment was calculated as the full amount of the exact transport costs for her two children to attend the primary school in the village during the 2007/08 calculated taking into account their attendance record and contemporary bus fare costs.

(c) Conclusion

27. Officer 3's remarks (paragraph 16) would suggest that Ms C's experience is not unique and that occasionally the children of a homeless family in temporary accommodation might attend a school outside the delineated 'catchment area' school. In this instance, in trying times for the family when they had lost their home, Ms C, admirably sought to ensure that the school and the nursery in the village continued to provide a source of stability for her youngest children.

28. I am happy to note that, in an effort to fully and finally resolve the matter, the Council made what I regard as an appropriate goodwill payment to Ms C. I note also the terms of recent reassessment of the Housing and Community Care homeless transport policy and that the home to school policy of the Education and Children's Service is currently being reviewed (paragraph 25). I do not uphold the complaint.

(c) Recommendation

29. The Ombudsman recommends that the Council inform him of the outcome of their review of policy.

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

Explanation of abbreviations used

Ms C	The complainant
The Council	Perth and Kinross Council
The Health Visitor	A NHS Health Visitor who liaises with the Council's Homeless and Resettlement teams
Officer 1	The Council's Service Development Officer, Housing and Community Care
The Executive Director	Executive Director, Housing and Community Care
Officer 2	Complaints Officer, Chief Executive's Office
Officer 3	Homeless Operations Manager, Housing and Community Care
Officer 4	Resettlement Officer, Resettlement Team, Housing and Community Care
Officer 5	Operations Manager, Education and Children's Services

The Homeless Code of Practice

Guidance to local authorities on legislation, policies and practices to prevent and resolve homelessness was sent to local authorities in Scotland in May 2005. Chapter 10 of the Code deals with advice and assistance.

Relevant to the current complaint are the following:

10.2 Offering good quality advice and assistance involves not only implementing the regulations but should involve the local authority being proactive in its approach and actively seeking a resolution to the applicant's needs.

10.5 The nature of the advice and assistance needed by a person who is homeless or faces homelessness is likely to vary from local authority to local authority, and from case to case. Advice should be individually tailored and should be wide-ranging and comprehensive. It should respond to the whole needs of the individual and involve the range of allied services to meet these needs either locally or nationally.

10.6 Advice to homeless people should be part of a general strategy for the provision of housing advice, including support for independent agencies where appropriate. Homelessness officers should be able to deal with at least the main non-housing items likely to arise on the spot, but should also know when and how to refer people to other advice agencies for specialist advice.

10.20 Local authorities should bear in mind that temporary accommodation arrangements may well result in the applicant becoming homeless again, thus creating both problems for the applicant and renewed expense for the public purse. If resources permit, and the applicant wishes, contact should be maintained with the applicant until suitable stable accommodation is found.

The Council's Current Policy on Entitlement to Free School Transport

In terms of section 1.1 of the Council's policy, the Council will provide free school transport for primary school pupils living more than two miles away from their delineated 'catchment area' school.

In relation to placing requests (to attend a school other than the delineated 'catchment area' school) where a placing request has been granted, the Council assumes that as a general rule parents will accept full responsibility for the organisation and cost of transport for their child travelling to and from school. There is no legal obligation for a Council to provide transport and normally none is provided (4.1).

No transport provision is made for children attending nursery schools or units, unless the child has special educational needs and has been placed at that nursery school or unit by the authority (4.2).

Housing and Community Care Homeless Transport Policy

Prior to the issue of the report the Council's Homeless Service introduced a transport procedure covering the circumstances under which transport will be arranged and provided for the Council's homeless customers (namely transport to temporary accommodation, other emergency assistance with travel cost or transport, and in cases of immediate homelessness, transport to attend a homeless interview). The Council confirmed that emergency assistance may be provided to transport children to their school for the first week of placement into accommodation to enable alternative transport arrangements to be made by the family. That assistance would be in the form of bus vouchers. The Council stated that the Education and Children's Service home to school transport policy was in the process of being reviewed.