

## Scottish Parliament Region: South of Scotland

### Case 200800480: Dumfries and Galloway Council

#### Summary of Investigation

##### **Category**

Local government: Grants, allowances, vouchers and bursaries

##### **Overview**

The complainant (Mrs C) complained that the school, where her son (Mr C) is a pupil, did not bring to her attention that her son was entitled to apply for an Education Maintenance Allowance (EMA) for the academic year 2006-2007. Mrs C says that Mr C, who has learning difficulties, missed out on receiving an EMA because retrospective payments cannot be made.

##### **Specific complaint and conclusion**

The complaint which has been investigated is that the School did not bring to Mrs C's attention that Mr C was entitled to apply for an EMA for the academic year 2006-2007 (*upheld*).

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

The Ombudsman recommends that Dumfries and Galloway Council (the Council):

- (i) pay to Mrs C the sum of £1,140 in lieu of the basic allowance payment and an additional payment of £300 in lieu of the bonus payment which Mr C would have been entitled to had he applied for and received an EMA for session 2006-2007; and
- (ii) issue Mrs C with an apology for any inconvenience which she may have been caused.

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

## **Main Investigation Report**

### **Introduction**

1. The complainant (Mrs C)'s son (Mr C) has severe learning difficulties, is partially sighted and has special educational needs. Mrs C complained to the Ombudsman's office that in 2006, when Mr C was 16-years-old, the school he attended (the School) did not give to him the relevant information regarding Education Maintenance Allowance (EMA) applications for the 2006-2007 academic year. Mr C was at the time a pupil in the School's Learning Centre. Mr C left the School in May 2008. Mrs C said that if her son had received the relevant application forms she would have applied, on his behalf, for an EMA for that academic year. As retrospective payments cannot be made, Mrs C complains that her son missed out on receiving an EMA.

2. The complaint from Mrs C which I have investigated is that the School did not bring to her attention that Mr C was entitled to apply for an EMA for the academic year 2006-2007.

### **Investigation**

3. In the course of this investigation I considered the relevant correspondence between Mrs C and Dumfries and Galloway Council (the Council) and also between Mrs C, her elected representative and the Council. I also made written enquiries of the Council about Mrs C's complaint.

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

### **Complaint: The School did not bring to Mrs C's attention that Mr C was entitled to apply for an EMA for the academic year 2006-2007**

5. According to the guidance issued by the then Scottish Executive, the EMA was introduced in 2005 to provide financial support to young people from low income households, to encourage them to remain in fulltime education beyond the minimum school leaving age. The allowance is administered by the local authority who reclaim the money from the Scottish Government. The maximum payment is £30 per term-time week, with up to two additional bonus payments available. Retrospective payments are not considered for any previous term.

6. Section 9 of the guidance released to Stakeholders by the then Scottish Executive states that meeting the additional support needs of vulnerable students (which includes students with disabilities) is a key challenge and there should be a degree of flexibility when administering EMAs for this group of young people.

7. In a letter dated 27 May 2008 Mrs C complained to the Council that Mr C had missed out on receiving an EMA for the academic year 2006-2007. Mrs C said that if Mr C had received the relevant application forms from the School at the relevant time, she would have applied on his behalf. As no application forms had been received she assumed that her son was not eligible for an EMA. However, as Mr C was in receipt of an EMA for the academic year 2007-2008 and their financial circumstances had been the same in 2006, she realised that her son would have qualified for the allowance for the previous academic year. She, therefore, asked when Mr C could expect to receive his EMA payment for the academic year 2006-2007.

8. The Council initially rejected Mrs C's complaint on the basis that the outcome of an investigation had shown the School had followed the relevant government guidelines on EMAs and the School was 'confident' that the relevant information about claiming an EMA was given to Mr C for the academic year 2006-2007. Further, the Council advised Mrs C that they could not agree to a retrospective payment for session 2006-2007 as there is no provision for this under the rules of the scheme.

9. Mrs C complained to this office in July 2008. During the course of my investigation, the Council conceded that they could not say with certainty that the relevant EMA forms had been given to Mr C. They stated that it had not been possible for the Council, as Education Authority, to produce any documentary evidence that could allow them to claim with confidence that the relevant information about claiming an EMA was given to Mr C or referred to Mrs C for the academic year 2006-2007.

10. The Council informed me that since session 2007-2008 staff in the School's Learning Centre raise the issue of the availability of EMAs at review meetings at which parents and pupils are present. The guidance and advice notes are copied directly to the teacher in charge of the Learning Centre and the advice from the central administrator is to make the parents aware of EMAs.

11. In view of the lack of documentary evidence that the relevant information about claiming an EMA was given to Mr C or referred to Mrs C for the academic year 2006-2007, and as communications with parents have been reviewed and tightened up since 2006-2007, the Council accepted that there has been a failure in administrative procedures.

12. On that basis, the Council agreed to offer Mrs C the sum of £1,140 in lieu of the basic allowance payment and an additional payment of £300 in lieu of the bonus payment which Mr C would have been entitled to had he applied for and received an EMA for session 2006-2007. In addition, they would issue Mrs C with an apology for any inconvenience which she may have been caused. This offer has been accepted by Mrs C.

#### *Conclusion*

13. The Council have accepted they are unable to say with certainty that the relevant EMA forms for the academic year 2006-2007 were given to Mr C and that there has been a failure in administrative procedures. For that reason, I uphold the complaint. I have taken note that the Council have reviewed and tightened up communications with parents since 2006-2007.

#### *Recommendations*

14. The Ombudsman recommends that the Council:

- (i) pay to Mrs C the sum of £1,140 in lieu of the basic allowance payment and an additional payment of £300 in lieu of the bonus payment which Mr C would have been entitled to had he applied for and received an EMA for session 2006-2007; and
- (ii) issue Mrs C with an apology for any inconvenience which she may have been caused.

15. 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**

|             |  |
|-------------|--|
| Mrs C       | The complainant                              |
| Mr C        | Mrs C's son and the subject of the complaint |
| The School  | The school attended by Mr C                  |
| EMA         | Educational Maintenance Allowance            |
| The Council | Dumfries and Galloway Council                |