

Report

on an investigation into
complaint no 05/C/11366 against
Leeds City Council

29 March 2006

**Investigation into complaint no 05/C/11366
against Leeds City Council**

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Key to names used

Mrs Park - the Complainant

David - the Complainant's son

Report Summary

Education

The complainant sent her son to a particular school. That school was due to close but she was reassured by a categorical statement by the Council that all pupils at the school would be found places at a new Academy. In the event the Academy could not accommodate all of the pupils.

Finding

The Council's categorical promise of places was maladministration in that certainty was never really possible. The promise should have been suitably qualified. Even without maladministration the complainant's circumstances would have been difficult but she suffered the injustice of needless additional anxiety and distress. In the end the Academy was able to offer a place for the complainant's son – an offer which was accepted.

Recommended remedy

The Council should pay to the complainant £250 for the injustice noted.

Introduction

1. Mrs Park complains because the Council¹ was unable to honour an undertaking that her son David would have a place at a specific secondary school.
2. For legal reasons, the names used in this report are not the real names of the people and places concerned².
3. An officer of the Commission has obtained information from the Council and has met senior officers. He has talked to Mrs Park.
4. An opportunity has been given for Mrs Park and the Council to comment on a draft of this report prior to the addition of the conclusion.

Investigation

Background Information and Advice Given by the Council to Parents

5. David is currently in his first year of secondary education at School A. Mrs Park had only reluctantly accepted a place at this school. She had appealed against the offer but had lost that appeal. She was, however, reassured by information from the Council that in due course David would have a place at a new ‘Academy’.
6. That information was contained in a guide issued by the Council in order to help parents select a secondary school. The guide stated that it was proposed to close School A (and another school) and that the new Academy “...will receive the pupils of the closing schools.” The guide went on to state:

“Pupils in attendance at (School A) will be guaranteed places at the Academy.”
7. Before a school is closed the proposal must be subject to public notification and confirmation by ‘The Schools Organisation Committee’ (SOC) – a body independent of the Council. Public notices issued by the Council on the proposed closure of School A confirmed that “.....pupils attending the school at the time of closure will transfer to the new (Academy)”. That information was reported to the SOC when it unanimously approved the closure.

¹ The Council has created an ‘arms length’ organisation called ‘Education Leeds’ which now deals with such issues as appear in this report on its behalf. For simplicity I will refer to ‘the Council’ throughout.

8. Officers say that the information in the guide to parents had to reflect the information in the public notices and as reported to the SOC. In commenting on a draft of this report the Council stresses that the relevant notices were published in good faith and in the “reasonable expectation” that all transferring children would be found places at the Academy.
9. The new Academy is independent of the Council. It sets its own admissions policy and the Council cannot require it to offer places to any specific children. The Academy was, however, set up with the intention that, at the outset, it took in pupils from the two closing schools.
10. The Council points out that the Academy itself set the limit at 180. It also points out that the Academy itself, in a newsletter, stated that pupils at schools A and B “will be guaranteed a place at the Academy”.

The Reasons Behind the Council’s Undertaking and the Problems that then Arose

11. The admission limits³ set for the first year at the two closing schools totalled 330. This is well above the limit for the first year group at the Academy, which has been set at 180.
12. Historically both closing schools have been significantly undersubscribed to the point that the totals in the first year groups did not exceed 180. Officers say they thought that this historic situation would remain and on that basis it was assumed that the Academy could take all pupils at the closing schools.
13. In the event the number of pupils in School A’s year of entry for 2005 was much higher than anticipated. This led to the combined totals of both closing schools in the first year being 54 above the Academy’s admission limit.
14. Officers say that this was caused by a number of factors that they did not foresee. In particular a Roman Catholic School was closed and that caused more people to apply for places at School A (which does have a religious character). They also point to a general reorganisation of secondary education in Leeds which had various unforeseen consequences, including an increase of interest in School A.

² Local Government Act 1974, section 30(3)

³ These limits are calculated according to a formula and are the point after which places will be denied in the relevant year group.

15. That there was going to be a problem was first apparent to officers on the Summer of 2005. From that point on arrangements were made to try and find satisfactory alternative arrangements for the 54 children, including David, who would not be able to go to the Academy. Those 54 children were selected after applying the Academy's own admissions criteria.

Subsequent Events

16. David's name was placed on a waiting list for places at the Academy. Mrs Park was not prepared to accept a place at any of the alternative schools identified by the Council. She did have certain rights of appeal but in the event a place at the Academy became available from the waiting list as from September 2006. Mrs Park accepted that offer. She says that whilst she is pleased that David has this place both she and David have been caused needless stress and anxiety by the Council's initial failure to fulfil its undertaking of a place at the Academy.
17. Officer says that they now realise it was unwise to have given a categorical assurance of places at the Academy. They say that in future suitable qualifications would be made.

Conclusion

18. If a promise is made it should be kept. If there is a chance that circumstances will change and a promise cannot be kept then any advice should be suitably qualified. That is a lesson that those involved here have learned the hard way. The Council's ultimate inability to fulfil its undertaking was maladministration. That criticism stands quite independently of whatever the Academy did or did not do or what the Council was able to achieve afterwards.
19. The situation for Mrs Park and David would still have been difficult even had suitable qualifications been made. School A would still be due to close and a place would (initially at least) still have been denied by the Academy. Mrs Park would still have needed to make suitable arrangements to educate David. However, the inability by the Council to meet its undertaking would have been wholly unexpected and would have caused anxiety and distress beyond what was inevitable anyway. That is the injustice from the maladministration.
20. To remedy that injustice the Council should pay to Mrs Park £250. I accept that the relevant lessons have been learned. One reason why I decided to proceed here to a

public report was to alert other authorities to the very important lesson about the need not to make categorical promises unless they will, regardless of events, be fulfilled.

21. When commenting on a draft of this report the Council stressed the work put in by offices with the Academy to try and avoid any problems arising. The Council expressed concern at the potential for it to be criticised in isolation from the Academy. The Council states that the Academy:

“.....has not felt able to assist in resolving the issue by, for example the use of temporary classrooms on site”.

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