

Scottish Parliament Region: North East Scotland

Case 200402393: Aberdeen City Council

Summary of Investigation

Category

Local Government: Recreation and leisure; Policy/administration

Overview

The complainant was concerned that Aberdeen City Council failed to adequately address the findings of a report into alleged racism and discrimination within an organisation receiving access to a Council-run sports facility.

Specific complaint and conclusion

The complainant alleged that Aberdeen City Council failed to adequately address the findings of a report into alleged racism and discrimination within an organisation receiving preferential, unrestricted and discounted access to a public funded sports facility (*not upheld*).

Redress and recommendation

The Ombudsman recommends that the Council agree a firm timescale for implementation of a system to check and review that clubs using their facilities are compliant with legal requirements and Council values.

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

Main Investigation Report

Introduction

1. On 30 March 2005, the Ombudsman received a complaint from a man (Mr C). The complaint which I have investigated is that Aberdeen City Council (the Council) failed to adequately address the findings of a report into alleged racism and discrimination within an organisation (the Sports Club) receiving preferential, unrestricted and discounted access to a public funded sports facility.

Investigation

2. The investigation of this complaint involved obtaining and reading all the relevant documentation, including communication between Mr C and the Council, the report produced by Grampian Racial Equality Committee (GREC), correspondence between the Council and the Sports Club involved and internal correspondence of the Council. I have set out my findings of fact and conclusion. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Council have been given an opportunity to comment on a draft of this report.

3. Mr C, who was born and grew up abroad, and his son were members of the Sports Club in Aberdeen. In October 2003, following a disagreement over training, Mr C complained to the chairperson of the Sports Club's parent association and received an emailed response containing what he considered to be racist remarks. On 22 October 2003, Mr C was informed that he was suspended from all coaching activities within the Sports Club for questioning the 'integrity, ability and qualifications of the club coaching staff and the ethics of the club committee'. Mr C believed that his suspension was racially motivated. This situation escalated to the point that, on 17 January 2004, Mr C was informed that his family membership of the Sports Club had been withdrawn. This meant that his son could no longer train or play for the Sports Club. Mr C appealed for his son's reinstatement, and on 9 February 2004 the Sports Club suggested this would be possible if Mr C agreed to a voluntary ban on his own attendance at all training sessions or matches. On 12 February 2004, a meeting was held between the Sports Club and Mr C, at which a representative of GREC was present, where Mr C would not accept the conditions of reinstatement for his son. In July 2004, Mr C complained of this treatment to the Lord Provost of Aberdeen, who is Honorary President of the

Sports Club, and also via a Council comments/complaints card. These approaches were referred to the Head of Services at the Council. As a result, the Council invited GREC to submit a report giving their view on any matters relating to alleged discrimination at the Sports Club which fell under the Race Relations Act. GREC compiled this report and submitted it to the Council in October 2004.

4. The GREC report stated that the exclusions that took place at the Sports Club were 'not the result of a consciously discriminatory policy or prejudices but an example of unwitting discrimination. Remedial actions can be taken to address all the identified problems'. The report also stated 'it is clearly a matter for Aberdeen City Council how they act remedially' before outlining some courses of action the Council might consider.

5. Initial Council responsibility for a response to the report fell to the Head of Service (Performance Management and Quality Assurance) but when this person fell ill responsibility was passed to the Assistant to the Chief Executive (the Assistant). The Assistant wrote to the GREC caseworker who had written the report inviting him to a meeting with the Council. The meeting would discuss both the adoption of a general approach to the questions raised and the possibility of a specific intervention in the dispute between Mr C and the Sports Club over his son's participation. The letter of invitation also set out the Council's view of their role in the matter. This was stated as the 'promotion of inclusion, fairness and non-discrimination generally ...and... the role of the provider and operator of the public facility used by [the Sports Club] for its activities.' The letter also said 'this question inevitably extends to a much wider issue of the extent to which the Council can require or encourage private/voluntary associations to observe the Council's own principles and values in the conduct of their internal affairs'.

6. GREC accepted the offer of a meeting with Council representatives. In preparation for this, the Assistant consulted with colleagues within the Council to come to a clear understanding of the Council's view of the findings of the GREC report. The Chief Executive told me in his reply to enquiries on the complaint that this view was that the report did not provide a sound basis on which to make a direct challenge to the Sports Club that they had acted in a racially discriminatory manner. I have seen internal correspondence which supports this statement.

7. The meeting was held on 6 December 2004 between the representative from GREC, the Assistant, the Head of Services (Culture and Learning) and the Principal Development Manager (Community Development Section). The outcome of the meeting was that the Council would make direct contact with the Sports Club to discuss the issues raised in the GREC report. A broad programme reviewing the Council's requirements from clubs contracting with it for the use of Council facilities had already begun and it was felt that this would address the conclusions of the report. This would include the requirement for clubs to act in a fair and equal manner towards all members; to have a reasonable process for the resolution of disputes; and the ability of members to monitor the performance of the executive body and hold it to account. Clubs would be required to satisfy the Council of this and, thereafter, it was hoped it would be rare for the Council to wish to intervene in individual disputes. It was also decided that, in this exceptional circumstance, the Council would suggest to the Sports Club that Mr C's son be reinstated. This outcome was communicated to Mr C and the Sports Club chairperson on 17 December 2004 and 21 January 2005 respectively.

8. The Sports Club requested a meeting with the Council to discuss the issues arising from the letter of 21 January 2005, indicating that they were not prepared to re-admit Mr C's son to membership.

9. Mr C was informed of this and asked the Assistant if this was an acceptable decision to the Council. The Assistant responded that, as indicated in his earlier correspondence, following this exceptional approach the Council now considered the matter to be a private one between the Sports Club, Mr C and his son. Following a further enquiry from Mr C, the Assistant re-iterated the Council's position once more.

10. The requested meeting between the Sports Club and the Council was held on 4 February 2005. At this meeting, the Sports Club submitted constitutional documents to the Council and agreed to consider any Council proposals on the development of the Sports Club's internal arrangements. The outcome of this meeting was communicated to Mr C and GREC on 8 February 2005, alongside a further re-statement of the Council's position with regard to the readmission of Mr C's son.

11. GREC sought clarification from the Assistant on why the Sports Club would not readmit Mr C's son. The Assistant again re-iterated that the Council would not act as 'medium for indirect communication between GREC/[Mr C] and [the Sports Club]' and referred all communication on this issue to the Sports Club itself.

12. In considering the Sports Club's constitutional documentation, the Assistant met with the Head of Services (Culture and Learning) and the Principal Development Manager (Community Development Section) on 18 May 2005. At this meeting, it was agreed that the documents contained much of what the Council would wish to see but that there were some areas where the documents could be improved and developed.

13. Suggestions for improvement and development were put to the Sports Club chairperson on 27 May 2005, along with the request for a Council representative to be present at the Sports Club's forthcoming AGM to observe that the Sports Club's arrangements worked effectively in practice. In addition, the broad programme reviewing the Council's requirements from clubs contracting with it for the use of Council facilities was mentioned again, with reference to a change in standard documentation to reflect this which was planned to be introduced by August 2005. This was also communicated to Mr C.

14. At the AGM held in June 2005, the duty manager of the Council facility that the Sports Club used was present and reported that the expected procedures and conduct were followed. With regard to the suggestions for improvement and development, it had been agreed between the Sports Club and the Assistant that there was no requirement to rush through these changes at that AGM and that the suggested changes would be considered at the 2006 AGM and the Council informed of the outcome.

15. The Council have assured me that the Sports Club do not receive any preferential, unrestricted or discounted access to the facility. While the Sports Club's booking is programmed in year-on-year, this is in line with the bookings of other long-term users of the facility. Any request for further access to the facility would be considered as an additional booking and negotiation would be required with other users to change or increase access. The Sports Club do not receive discounted access to the facility.

Conclusion

16. The GREC report concluded that the Sports Club's actions did not constitute a consciously discriminatory policy or prejudices and clearly states that it is a matter for the Council how they acted as a result. I find that the Council carefully and comprehensively considered this report. They concluded, as they were entitled to do, that the report did not constitute a firm basis from which to make a direct challenge to the Sports Club that they were acting in a racially discriminatory manner. However, as suggested in the report, the Sports Club were required to satisfy the Council that they were compliant with a range of legal requirements and values that the Council would expect to see shared by an organisation receiving extensive use of a Council facility. The Council pursued this and kept Mr C informed of their actions throughout. The Council are also developing a system based on the Club Accreditation Scheme to ensure clubs using their facilities are compliant with both legal requirements and Council values. The Council have also responded in detail to Mr C. Exceptionally, the Council made efforts to mediate with a view to have Mr C's son re-admitted to the Sports Club. Although clearly the Council did this with the intention of making things better for Mr C's son, unfortunately it had the effect of blurring the Council's real responsibilities in the matter. When this exceptional approach was not acted upon, the Council maintained their position that this was a matter between the Sports Club, Mr C and his son. I am satisfied the Council adequately addressed the findings of the report and, therefore, do not uphold the complaint.

Recommendations

17. As noted above, the Council have asked to be informed of the outcome of discussions at the club's 2006 AGM. The Ombudsman asks the Council to notify her of the outcome of this. The Council have been developing a system to check and review that clubs using their facilities are compliant with legal requirements and Council values. The Ombudsman commends the Council for this action but notes that it is more than 18 months since this system was first mentioned. In order to avoid similar situations arising in the future, the Ombudsman, therefore, recommends that a firm timescale for implementation of this system is in place within six months and asks that the Council notify her of this timescale and also the details of the system.

29 August 2006

Explanation of abbreviations used

Mr C	The Complainant
The Council	Aberdeen City Council
The Assistant	The Assistant to the Chief Executive
GREC	Grampian Racial Equality Committee