



A Review of the Child, Youth and Family Complaints Resolution Policy and Procedure:

Recommendations on how Child, Youth and Family can take a Child-Centred Approach to
Complaints Resolution

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INTRODUCTION

Background

Under s13 (b) and (c) of the Children's Commissioner Act 2003, the Commissioner has responsibility to monitor and assess the policies and practices of Child, Youth and Family and to encourage the development of policies and services that are designed to promote the welfare of children¹. To carry out this work a number of activities are undertaken in accordance with a Monitoring Framework agreed to in 2008 and updated in May 2011. Other functions include responsibilities to promote understanding of, and advocate for, children's interests, rights and welfare; raise awareness and understanding of UNCROC; promote the establishment of accessible and effective complaints mechanisms; and promote the participation of children in decision-making that affects them.

Children and adults who are involved with Child, Youth and Family can contact the Office of the Children's Commissioner (the Office) to discuss their dissatisfaction with decisions made or actions taken by Child, Youth and Family. It is the practice of the Office to suggest that adults, in the first instance, try to resolve their concerns directly with Child, Youth and Family. They can do this either with the local Child, Youth and Family office or by lodging a complaint under Child, Youth and Family's complaint process. If, after going through the complaints process, a person remains dissatisfied, they may make a complaint to the Office.

Enquiries received at the Office from children themselves are rare but are treated as a priority and the Office will take an active role in trying to resolve them. Rather than referring them onto someone else or some other complaints process, the Office will make enquiries on their behalf and assist them to find resolution.

The previous Children's Commissioner, Dr John Angus, decided to monitor and assess the quality of Child, Youth and Family complaints procedures available to children who have involvement with Child, Youth and Family. In examining Child, Youth and Family's complaint resolution processes, the Office used a child-centred lens to evaluate the policy and processes. This is the report of that inquiry.

Why we carried out the review

Children have a right to express their views whenever decisions are being made that will affect their lives. They also have the right to receive relevant background information and an explanation of the reasons for such decisions. These rights are enshrined in the Children, Young Persons and Their Families Act 1989 (CYPF Act) and in articles 12 and 13 of the United Nations Convention on the Rights of the Child (UNCROC). The right to express their views becomes particularly important when children perceive that things are going wrong or they are dissatisfied with a service. This places an obligation on government to ensure that children are provided with the opportunity and mechanisms to have their views heard and given due weight and that they are able to participate in decision-making. This includes mechanisms to have their complaints or concerns heard in a manner that supports their participation and wellbeing.

Children who are involved with Child, Youth and Family are a particularly vulnerable group of children. They often face challenges in understanding and participating in decision-making processes which affect them and find it difficult to voice concerns or make a complaint because of their circumstances and the power of adults in their lives.

In 2003, when the UN Committee on the Rights of the Child released its General Comment on the Implementation of UNCROC, the Committee outlined its view on complaints mechanisms available to children. It commented that:

¹ A child in this report is defined as 0-17 inclusive in line with the United Nations Convention on the Rights of the Child,

Children's special and dependent status creates real difficulties for them in pursuing remedies for breaches of their rights. So States need to give particular attention to ensuring that there are effective, child sensitive procedures available to children and their representatives. These should include the provision of child-friendly information, advice and advocacy, including support for self-advocacy and access to independent complaints procedures and to the courts with the necessary legal and other assistance.²

This was reiterated in the 2009 *Guidelines for the Alternative Care of Children: A United Nations framework*³ which states:

Children in care should have access to a known, effective and impartial mechanism whereby they can notify complaints or concerns regarding their treatment or conditions of placement. Such mechanisms should include initial consultation, feedback, implementation and further consultation. Young people with previous care experience should be involved in this process, due weight being given to their opinions. This process should be conducted by competent persons trained to work with children and young people.⁴

The development of an effective complaints mechanism is one way to ensure that the views of children are considered in meaningful and practical ways. Appropriate bodies have powers to investigate, rule on and provide remedies in respect of breaches of children's rights. For a complaints mechanism to give meaningful expression to children's rights it must be effective in ensuring that children know about their rights, are free to exercise them, are supported to do so, and the system is capable of giving their complaints fair and impartial consideration (Northern Ireland National Standards for Foster Care Services, 2003).

Complaints mechanisms should be guided by natural justice principles.⁵ When seen in relation to children this means ensuring that complaints mechanisms are child sensitive, including having access "to children and their representatives, including child-friendly information, advice, advocacy – including support for self-advocacy – and access to independent complaints procedures and to the courts with the necessary legal and other assistance"⁶.

What we did

In looking into the Child, Youth and Family complaints process, we:

- reviewed Child, Youth and Family's complaint resolution policy and procedure, including legislation, policies, processes and practices
- explored the statutory and rights framework for the provision of a complaints process for children
- carried out a literature review identifying the barriers which may make it difficult or stop a child raising concerns or making a complaint
- read the literature around identifying a framework for a child-centred complaint resolution process based on best practice mechanisms and approaches to dispute resolution, complaint handling, quality management, participation and engagement
- analysed data from Child, Youth and Family, the Office's Childs Rights Line, the Office of the Ombudsmen and YouthLaw
- consulted with children and community partners

² CRC/GC/2003/5 November 2003 paragraph 24

³ In 2009 the UN General Assembly formally welcomed guidelines developed by SOS Children's Villages International and International Social Service. The guidelines were developed in response to recognition of the gaps between the rights of children and implementation in policy and practice.

⁴ Guidelines for the Alternative Care of Children: A United Nations Framework, pp. 21-22

⁵ The Bill of Rights Act gives statutory protection to the right to justice. Section 27(1) states:

(1) Every person has the right to the observance of the principles of natural justice by any tribunal or other public authority which has the power to make a determination in respect of that person's rights, obligations, or interests protected or recognised by law.

(2) Every person whose rights, obligations, or interests protected or recognised by law have been affected by a determination of any tribunal or other public authority has the right to apply, in accordance with law, for judicial review of that determination.

(3) Every person has the right to bring civil proceedings against, and to defend civil proceedings brought by, the Crown, and to have those proceedings heard, according to law, in the same way as civil proceedings between individuals.

⁶ CRC/GC/2003/5 November 2003 paragraph 24

- met with Child, Youth and Family National Office staff
- analysed Child, Youth and Family's complaint resolution processes in the context of a child-centred framework and identified opportunities for improvements to processes and practices.

The report structure

The first section of this report considers current legislation, Child, Youth and Family policies and practices in relation to complaints resolution. In the second section, international literature is reviewed with a focus on what is known about children making complaints and what is known about how to ensure that a complaints process is accessible and effective for children. The third and fourth sections describe the themes emerging from the focus groups with ten children and two young adults currently in care and three children and five young adults who had recently transitioned from care and community partners. The report concludes with discussion and recommendations to assist Child, Youth and Family adopt a child-friendly, child-centred approach to complaints management.

Section 1: Legislation and Child, Youth and Family policies and practices

This section of the report explores the legislative framework provided by the Children, Young Persons and Their Families Act 1989, and examines the Child, Youth and Family Complaints Resolution Policy and Procedures, along with other relevant Child, Youth and Family policies and practices in relation to complaints made by or on behalf of children.

Legislation

Currently under the Children, Young Persons and their Families Act 1989 (CYPF Act) there is no statutory requirement for Child, Youth and Family to provide an accessible and effective complaints process to children. Clause 5.1 of the proposed Children, Young Persons, and their Families Amendment Bill (no 6) sought to place a new duty on the Chief Executive of the Ministry of Social Development to have effective procedures in place to receive, hear, determine and address complaints from children and their families. The Office supported the inclusion of this new provision as it would have given practical effect to the rights contained in UNCROC, especially those relating to participation. The Bill has not yet been progressed into law.

Child, Youth and Family policy on complaints resolution

The complaints process is designed to deal with formal complaints, rather than those concerns which staff at a site office can address relatively easily and quickly. According to Child, Youth and Family:

Complaints can be managed through a formal or informal process or in some cases may go through an informal and then a formal process...The bulk of complaints are entered at national office and the site in the majority of cases decide whether it is a formal or informal complaint.⁷ In an informal complaint the complainant doesn't receive any formal documentation as a rule. The level of response can vary from a phone call to a meeting. There may or may not be a letter - this often depends on the complainant's preference and on the type of concern raised....Although sites are encouraged to enter all complaints made at a site level, they might get a complaint/concern in person that is resolved quickly and doesn't get recorded. The detail of the concern and the resolution are entered into the database. The resolution is a text field so it's not reported on.⁸

The formal complaints process has two distinct stages. The first is an internal review and assessment, by Child Youth and Family. The second is a Chief Executive review undertaken by a panel of advisors to the Chief Executive, drawn from outside the Ministry of Social Development. The final decision on a complaint is made by the Chief Executive. The Panel focuses on Child, Youth and Family's organisational performance, processes and systems and organisational accountability - it does not focus on individual social worker's actions or the actions of staff as individuals. The Panel considers the complaint (the action, inactions, etc) in the context of Child, Youth and Family's organisational environment, any relevant policies and procedures, and Child, Youth and Family's management and response to the complaint, rather than on assigning responsibility to individuals involved in the events in question. If the complainant is not satisfied with the decision from the Panel, they must be advised by the Secretariat of the alternative avenues through which they can request a review of their complaint, such as the Office of the Children's Commissioner, or the Office of the Ombudsman.

⁷ According to the staff training PowerPoint presentation given to the Office from Child, Youth and Family National Office it is "sometimes hard to know what's a formal complaint and what's a concern. There are some basic guidelines to help you work this out":
A concern is a first expression of dissatisfaction, or when someone points out an obvious mistake that can be easily resolved. If we get it right at this point we can save it from becoming a formal complaint.

Complaints that are almost always formal include:

- Complaints in writing
- Complaints that come via national office, the Minister's office or the Children's Commissioner
- When it's not the first time the issue's been raised, even if it's the first you've heard of it
- When the complainant says they want to make a formal complaint – even if you don't think it is one.

⁸ Child, Youth and Family, 21 July, 2010

Scope

The scope of complaints that can be considered through the Child, Youth and Family complaints process is governed by the principal consideration that a complaints process should not interfere with or undermine a judicial, statutory or employment process. This policy applies to all Child, Youth and Family employees including:

- permanent and fixed term and casual employees
- temporary employees engaged through an agency
- students
- individual contractors.

Complaints about the social work process, conduct and behaviour of staff arising during the exercise of these functions (unless of an employment nature) are within the scope of the Complaints Resolution Policy and Procedure. Complaints about third party providers are also considered in the complaints process and are assessed from the perspective of Child, Youth and Family's statutory role and functions (i.e. in relation to the assessment, approval, selection, and monitoring of a provider) under Sections 7, 396 and 403 of the CYPF Act to:

- ensure that persons providing services under the CYPF Act receive adequate training and comply with appropriate standards (s7(2)(f))
- monitor and assess the services provided under the Act by Child, Youth and Family and by other organisations, groups and individuals (s7(2)(g))
- approve organisations as providers of services (s396 and s403).

Complaints from those receiving services from third party provider organisations are addressed, in the first instance, by the providers, who are required by Child, Youth and Family to have their own complaints processes in place. In addition to decisions made under the CYPF Act, decisions made by social workers under the Adoption Act 1955 and the Adoption (Intercountry) Act 1997 prior to an application to adopt being submitted to the Court also fall within the scope of the complaints process, as do decisions under the Adult Adoption Information Act 1985.

Outside of the scope of the complaints process

The complaints process will not consider such things as:

- allegations of abuse or neglect
- complaints about a case currently before the Court; Court decisions or judicial process or matters capable of review on the merits of the case by a Court or Tribunal unless there are special circumstances that make it unreasonable to use those appeal rights
- complaints made by current residents of a Child, Youth and Family residence about matters capable of review through the residences' grievance procedure
- complaints made by Ministry staff
- complaints about the standard of care for those in care before 1992 (these are managed by a Historical Claims Team)
- aspects of complaints which have resulted in the matter being treated as a staff disciplinary matter in relation to employees of Child, Youth and Family.

Complaints made by children

The policy states that Child, Youth and Family staff need to be mindful of the specific needs of children who either use or are affected by the Complaints Resolution Policy and Procedure. Specifically staff must ensure that:

- the best interests of the child are prioritised at all times
- the rights and welfare of the child concerned are safeguarded and promoted
- a process that supports the participation of the child is facilitated
- the wishes and views of the child are sought, ascertained, recorded and taken into account
- they facilitate access to a support person for the child if the child wants one
- the child is advised verbally, and in writing, preferably by the decision maker, of the

decision made about their complaint.

Complaints made on behalf of a child

A representative acting on behalf of a child may complain to Child, Youth and Family. In this case, the policy states that staff must, at the earliest opportunity, determine whether:

- the child wants the complaint to be made
- the child wants to be represented and wants to be represented by the complainant
- the person who makes the complaint is representing the child views
- the child agrees to information being shared with the complainant.

A manager may refuse to accept that a representative of a child should act on the child's behalf if the manager believes, on reasonable grounds, that the representative:

- would have a conflict of interest with the child relating to the subject-matter of the complaint
- has put themselves forward predominantly for an interest(s) other than the interests of the child
- would attempt, or be likely to attempt, to pervert the course of justice
- is prevented or restricted from having access to, or contact with, the child by a Court Order.

If the particular representative is not accepted as an appropriate person to act on behalf of the child, the manager may still consider that the complaint is valid and, accept the complaint from the person in their own right, rather than as a representative of the child and arrange for the matter to be investigated.

Anonymous complaints

Anonymous complaints are to be registered and analysed to determine whether they raise concerns for the safety of a child, what further action (if any) needs to be taken and determine whether there are any developing trends.

Withdrawing a complaint

The complainant may withdraw their complaint at any time. If a complainant withdraws their complaint, the relevant manager will write to the complainant to confirm the withdrawal of the complaint and then assess whether there is a need for any subsequent actions in the services delivered.

Timeframes

A formal complaint must be registered within one working day of receipt with a complaint acknowledgement letter being sent out within five working days of receiving the complaint. A complaint response letter is then required to be sent out within 20 working days or over 20 working days but within an agreed extended timeframe.⁹

Record Management

According to the *Public Records Act 2005* a full and accurate record of information related to complaints must be created and maintained in order to comply with obligations under the Act. All information related to a specific complaint must be maintained in a separate complaint file so that accurate records are maintained and reports can be produced. Under the *Recording Policy* there is also the expectation that in all cases the following information is recorded:

- discussions and decisions made during supervision
- assessment and practice tool application and outcomes

⁹ The timeframe for responding to a complaint may need to be extended. If this is the case the relevant manager must write to the complainant within 10 working days of receipt of the complaint outlining the reason for extension, the new response timeframes and the arrangements, if applicable, for further progress reports.

- plans, reviews and reports
- critical decisions made, the rationale behind these decisions and the actions taken
- the views and voices of children and their families
- information that provides a record of Child Youth and Family's role in a child's life
- personal and demographic details of children and their families

Attention is also drawn to the importance of capturing data on disabled children and identifying relevant characteristics such as mental health, medical issues, and behaviour disorder. Data on ethnicity and iwi affiliation is also required to ensure culturally appropriate service delivery. Additional information is required for children in care.

These records must be retained in the relevant regional office for six months after the complaint has been closed. The file must then be archived within MSD. All records older than 25 years of age must be transferred to the Chief Archivist unless they are still required for administrative use.

Documentation and recording of complaints

The bulk of complaints are entered on a register at Child, Youth and Family National Office and, in the majority of cases, the site decides whether it is a formal or informal complaint. Once it has been decided that a complaint is a formal complaint details are recorded in the database, with a complaint form being completed, an acknowledgement letter or an out of scope letter sent out. If a complaint cannot be resolved within the required timeframes a complaint extension letter is sent out. Following the complaint review a complaint report is completed and a final response letter is sent out.

While sites are encouraged to enter all complaints made at a site level, it is not a requirement to enter those deemed informal. In effect, if a site chooses to enter the concern or complaint into the database then the detail of the concern or complaint is captured along with the resolution. It is important to note that because the resolution is a text field this information is not reported on, nor does the complainant receive any formal documentation as a rule. The level of response can also vary from a phone call to a meeting. There may or may not be a letter, depending on the complainant's preference and on the type of concern raised.

Data analysis and reporting

MSD Corporate and Governance monitor and report on Child, Youth and Family complaints, producing five reports:

- The complaint count report, which tells how many complaints have been received, by how many complainants, whether they were informal, withdrawn or formal, and, if they were formal, how many were closed and what the outcomes were.
- The time to acknowledge complaints reports, which reports how many complaints were acknowledged within the five day limit and how many were late.
- The complaint description report details how many complaints were received within the timeframe and what description groups were used.
- A report of how long it took to send out the final outcome letter, effectively closing the complaint.
- The complaint status report, which tells how many complaints are in each stage of the process at any given time.

MSD Corporate and Governance provide the Deputy Chief Executive, Child, Youth and Family and the MSD Performance Resources and Risk Committee with quarterly and annual reports on the Complaints Resolution Policy and Procedure process.

No specific reports are generated in relation to complaints made by, or on behalf of, children. No analysis is carried out to identify trends and recurring issues relating to children.

Staff training

Training for all staff, including the Contact Centre, has been carried out across the country once.

Ongoing staff training is important to keep staff aware of children's rights and effective communication with children.

Review of complaints policy and procedure

At this stage no formal review of the complaints policy or procedure has taken place.

Child, Youth and Family complaints process communications plan

On 21 May, 2008 Child, Youth and Family created a *Child, Youth and Family Complaints Process Communication Plan*. This document clearly identifies children as a target audience. However there is no specific strategy as to how Child, Youth and Family are to ensure that children who come in contact with Child, Youth and Family are made aware of their rights, including the right to complain and how to do this, in a manner that is accessible and easy to understand.

Child, Youth and Family website

Our audit of the Child, Youth and Family website considered whether web-based information was available for children on their rights and how to make a complaint. Our recommendations for website enhancement were presented to Child, Youth and Family and the majority of those recommendations have now been implemented by Child, Youth and Family, making the website more child-friendly and accessible.

Section 2: Literature review

What we know about children and young people making complaints

Effective complaints mechanisms provide a safety valve for children because they give appropriate bodies powers to investigate, rule on and provide remedies in respect of breaches of children's rights. One of the indicators of wellbeing for children who come in contact with Child, Youth and Family could therefore be seen as the number and nature of complaints made by or on behalf of them.

However, a review of literature shows that often children will not make use of official complaints bodies. Sir William Utting's report, *People Like Us. The Report of the Review of the Safeguards for children living away from home (1997)* raised serious doubts about children's faith in the complaints process, based on comments from children and his committee's observations. He commented on the "tiny proportion of complaints that emanate from children" and that children's confidence in the complaints process is low. Research shows that children may also be or feel particularly vulnerable and be fearful of any negative repercussions from making a complaint and be concerned a complaint may make their situation worse (Boylan & Ing, 2005; Grover, 2004). This is consistent with what the children told us in this inquiry. The Waterhouse Report, *Lost in Care (2000)* and the Children's Commissioner for Wales's report *Children Don't Complain (2005)* emphasise how difficult children find it to make a complaint while being looked after and cite many examples of children who attempted to complain but whose voices were not heard.

A low number of complaints made by children does not necessarily signify that children do not have any concerns or that they are not experiencing serious problems. In a comprehensive exploration of New Zealand's compliance with UNCROC, Robert Ludbrook (2006) points out that there is in fact strong evidence to the contrary:

In many countries, accounts of serious and widespread physical, sexual and emotional abuse of children in institutions or in out-of-family care have surfaced in recent years. Systematic abuse of a serious nature has been shown to have occurred in New Zealand in Lake Alice Psychiatric Hospital, in Department of Social Welfare Residences and in various children's homes run by church organisations. Although the abuses that come to light have been known to the children affected and to staff in the institutions they have often been concealed from public scrutiny for years. This raises questions whether the internal procedures available to children are effective and what needs to be done to prevent similar abuses occurring today and in the future.

One of the major barriers to children making complaints is their general positioning in society. Children are largely marginalised in adult-centred society and are generally acknowledged as being a vulnerable group (because of their dependency) who have the added need for protection and promotion of their rights. According to Lansdown (1994) this vulnerability is two-fold, inherent and structural.

It is inherent because of their physical weakness, immaturity, lack of knowledge and experience. For very young children this extends to being dependent upon adults to provide quality care in order to survive. Their survival is dependent on the willingness and capacity of adults to meet these needs. The degree of vulnerability diminishes as children become older and become better able to exercise responsibility for themselves (Lansdown, 1994). They also experience structural vulnerability due to their complete lack of political and economic power and lack of civil rights in our society. Children have, in general, no access to money, no right to vote, no right to express an opinion or be taken seriously, no access to the courts and no right to make choices about their education. They have no formal voice in society at all. This derives from historical attitudes and presumptions about the nature of childhood and is a social and political construct and not an inherent or inevitable consequence of childhood itself (Lansdown, 1994).

In other words, even though children are autonomous rights holders, they are dependent on adults such as their parents/guardians, caregivers and social workers, to give effect to those rights by

acting on their behalf (HRC, 2004). They experience unequal power relations with adults and much of their lives are controlled and limited by adults. As Alderson and Goodey point out:

The main complications do not arise from children's inabilities or misperceptions, but from the positions ascribed to children.¹⁰

Children are therefore used to having much of their lives dominated by adults, they tend to expect adults' power over them and they are not used to being treated as equals by adults.

Children who come in contact with Child, Youth and Family often face additional challenges in seeking to understand and participate in decisions which affect them, or in voicing concerns or complaints, given their circumstances and the power of adults in their lives. They may:

- have experienced abuse, maltreatment and neglect by adults responsible for their care and protection
- have mental health issues or special needs requiring extra health, education or community supports for optimal and nurturing child development
- be in custody or on court-ordered conditions in the community
- have no stable, supportive adult in their life to help them voice their views and protect their rights.¹¹

Children, whether looked after or not, who are living even part of the time away from home, will inevitably find it very difficult to make a complaint or raise an issue. This is understandable when the information that is available, as well as the processes to be followed, are not child friendly and do not address power differentials between adults and children.

Children have very specific differing needs from adults when it comes to complaints mechanisms, requiring a different approach to resolving concerns and complaints.

What is being child-centred?

A child-centred approach to complaints resolution involves:

- treating all children with dignity and respect
- acknowledging that children have rights and knowing what rights a child has in connection with a given issue
- including children in decision-making processes that affect them, listening to and considering what children have to say within a process accessible to and useable by children, excluding only in exceptional circumstances
- viewing every decision according to its impact on an individual child, ensuring that the best interests of the child are central to decision-making
- recognising that giving acknowledgement and due consideration to a child's view is part of determining their best interests
- ensuring children get what they need and that they understand that they may not always get everything they want.

What is a child-centred complaint review?

Two elements underpin a child-centred complaint review:

- Hearing the views, opinions and concerns of the child, and
- Holding the child's best interests primary in all decisions.

These two elements should be held paramount throughout a complaint review, in attempts at resolution during the course of a complaint, when collecting and weighing information, and when

¹⁰ Alderson and Goodey, 1996: 106

¹¹ Representative for Children and Youth and the Ombudsperson. (January 2010). Hearing the Voices of Children and Youth: A Child-Centred Approach to Complaint Resolution, p. 8

making a decision about a complaint.

Hearing the views, opinions and concerns of the child

It is important to hear, understand, value and consider the views of the child, even if the child is expressing views that do not seem to be or are not in the best interests of the child. Children may lay such complaints themselves, or with the help of an advocate. Where a child brings forward a concern or complaint, or where an advocate brings forward a complaint directly on behalf of a child, the child is the complainant. Under these circumstances the child's views should be sought directly.

Alternatively, a parent, guardian, family member or other concerned party may make a complaint where a child is the subject of a complaint but has not laid the complaint. Since the child has not brought forward the complaint, the designated complaint reviewer may wish to consider a number of factors in directly seeking the child's views including:

- the physical health and functional abilities of the child and his/her ability to communicate his/her views;
- the psychological health of the child and the impact of an interview on the child; and
- the age of the child and his/her ability to form views on the subject matter of the complaint, to communicate his/her views, and the impact of an interview on the child.

The decision to exclude a child from direct participation must not be made lightly but with considerable deliberation. If a decision is made not to interview a child, the reasons for that decision should be thoughtful and considered. Any rationale for not including a child in a review must be documented.

Complaint reviews, and the reports and records generated in the course of the review, should reflect how the reviewer ensures the child's views were heard and fully considered.

Holding the child's best interests primary in all decisions

At the same time, the best interests of the child must guide decision-making. Hearing, valuing and considering the child's views does not necessarily mean that the child will get what he/she is advocating for, if this is contrary to his/her best interests. A child may not fully appreciate the significance or implications of his/her wishes in the short or long term. It does mean that if a child has expressed a view contradictory to his/her best interests, and his/her best interests have guided decision-making in a complaint, the child should be informed of the reasons for the decision, acknowledging his/her views.

Key Elements

On reviewing the literature about child-centred approaches to complaints resolution six broad elements emerge:

- Awareness
- Accessibility, including the provision of advocacy services
- Timeliness
- Problem solving approach and perspective
- Fair and transparent administration
- Quality assurance and accountability

Awareness

Children have the right to express their concerns about services, actions or decisions. To use or access a complaint system a child must first know that they have the right to complain or seek a review of a decision that affects them. They also need to be given relevant, accessible and easy to understand information about:

- how to complain;
- what information is required when they complain;

- what assistance is available to them if they wish to make a complaint;
- how the complaint will be managed (timeframes, progress reports, final advice); and
- where the complainants can access the agency's complaints management policy and procedure.

This information needs to be provided to children in a way that can be understood by the very young and those with special needs (including physical, cognitive and behavioural challenges). The process must be well publicized and information easily understood and presented in a child-friendly manner (Aiers and Kettle, 1998). Having examples of issues that might arise encourages children to relate to and understand a process that may otherwise appear intimidating. For children with language or communication difficulties, or for whom English is not their preferred language, specialist help is likely to be required to ensure that they have equal access to the complaints system.

A young person's cultural background informs and influences the way they experience the services they receive as well as how they perceive, experience and resolve any issues that arise (Lund, Morris and Duryea, 1994; Woodford-Berger, 2000). Processes to address complaints made by children from diverse backgrounds must take into account their cultural backgrounds. The implication of this is that those designing and implementing complaints procedures need to consider cultural and systemic barriers to children bringing complaints forward. This is particularly true for indigenous children. Processes must be developed to give these children the capacity to have a voice and be heard. The best way to ensure this is by involving indigenous and other cultural groups in the design and operation of the complaints procedure.

Much of the responsibility for ensuring that complaint resolution processes are accessible and welcoming to children from all cultural backgrounds will rest with the staff implementing the processes. This means good staff training and inclusive workforces in the complaint resolution area will be key for all service providers (Lund, Morris and Duryea, 1994).

Accessibility, including the provision of advocacy services

Once children know that they can express concerns or complain and understand all stages of the process, including timeframes associated with each stage (Pithouse and Crawley, 2007) the process needs to make it easy for them to raise matters. Children will often need help to make their complaint if they are to fully benefit from a complaints system. The nature of this help will depend on their level of maturity and the circumstances and challenges they face. Primarily, children need access to advocacy services, which organisations will need to develop or commission (Aiers and Kettle, 1998).

The role of an advocate is to provide children with all relevant information and support them in interpreting and understanding that information so that they can make well-informed decisions. They ensure that the views and wishes of children are heard, understood and recorded in all decision-making that affects them (see Appendix 4 for UK National Standards for the Provision of Children's Advocacy Services, 2003). For children who are unable to give instructions, advocates will act on the basis of "best interests" drawn from an ethical and research base.

Research shows that in order for an advocacy service to be effective for children in care such services need¹²:

- to be **independent** as children are acutely aware of adult's "agendas" which they feel run contrary to their own wishes. They are aware of funding and accountability structures which may water down independence and create conflicts of interest from the child's point of view (Pithouse & Crowley, 2007).
- to support the building of a **relationship** between the advocate and the children as studies show that children are often unwilling to speak with a stranger about their concerns even if

¹²Child, Youth and Family (2010) Discussion paper on advocacy in the grievance process of Child, Youth and Family Residences, pp. 1-2

they are an “advocate”. They want the independence of an advocate, but only if they have been given the chance to get to know the advocates through visits (Dalrymple, 2004).

- to be **confidential** in order for children to trust advocates.
- to **focus on the child’s views and wishes** rather than acting in their “best interests”. It appears children see the rhetoric of “what is in your best interest” as an adult’s point of view. Children have reported they felt the advocate is the only adult who is truly there to help their wishes get across without any other purpose or role (Boylan & Braye, 2006; Dalrymple, 2004).

It is also important that staff are aware of the role and nature of the advocacy service available otherwise the effectiveness of that advocacy service is undermined. Employees need to know how to refer children and to respond to advocates appropriately.

There will be times when children will wish to choose their own advocate. This may include, for example, parents, other adult relatives, carers, social workers, teachers, friends or personal advisers. Such people should be able to look to advocacy services for advice and support in their role as advocates.¹³

Not all children will want or need advocacy services. Children should not feel that they have to have an advocate in order to raise concerns or make a complaint. A child-centred process must be easy for children to access on their own or it risks undermining their independence by creating a dependency on advocates (Parry et al, 2006).

Examples of advocacy services provided to children include:

- Queensland Community Visitors. These are part of the Commission for Children and Young People and Child Guardian and visit children in out of home care. They make sure that the concerns, views and wishes of children are listened to and seriously considered.
- Canberra’s Official Visitor programme. Official Visitors visit, receive and consider complaints from: children who are detained in a detention place; or confined at a therapeutic protection place; or accommodated in a place of care; or other people providing services to children.
- *The Government of Western Australia Department for Child Protection, Better Care, Better Services: Standards for children in protection and care. Standard 9 - Complaints and disputes* sets out the requirement **that** all children are given information about the Advocate for Children in Care and of other people and organisations that can assist them if they disagree with a decision of the service.¹⁴
- In the UK children are entitled to advocacy support that is independent and confidential. The role of the advocate was established under the Advocacy Services Representations Procedure (Children) (Amendment) Regulations 2004. The advocate should provide independent and confidential information, advice, representation and support to the child making the complaint.¹⁵

Timeliness

Arrangements for handling complaints should be transparent and set and meet clear and reasonable time limits (International Organisation for Standardisation [ISO], 2004), taking into account the child’s perspective on time. Timeframes should be defined in advance and be capable of being understood by any child wishing to make a complaint. To maintain engagement and respect for the process, children need to be kept informed of the progress of the complaint on a regular basis. Updates and perceived progress are important to children who are more likely than

¹³ Department of Health, (2003) National Standards for the Provision of Children’s Advocacy Services, UK

¹⁴ Western Australia Government, Advocacy for Children and Young People in Care, July 2008

¹⁵ Further detailed guidance can be found in *Get it Sorted: Providing Effective Advocacy Services for Children and Young People making a Complaint under the Children Act 1989*. Department for Education and Skills, 2004.

adults to feel powerless when dealing with service providers (Aires and Kettle, 1998). If a complaint cannot be resolved immediately at the source of the original conflict, then it should be addressed in a way that will lead to its resolution as soon as possible (ISO, 2004).

Problem solving approach and perspective

A child-centred approach to complaints resolution requires organisations to see the handling of complaints as a positive service to children, in the exercise of their rights. A problem-solving service approach focuses on achieving the best outcome for the child. Effectively, if a child feels that they have a complaint against a service then he or she has a sense of grievance, regardless of whatever others may think to the contrary. No proof is required. People, including children, generally know if they are dissatisfied with a service. The goal of making the best decision for the child should be clear at the outset with the process promoting reconciliation and understanding.

Fair and transparent administration

Good practice in children's complaints work encourages service providers to work on finding speedy, constructive and agreeable solutions to children's expressions of dissatisfaction close to the point of service delivery. In saying this, the literature also points to the need for a complaints system to provide a formal procedure for investigation. This procedure should be available at any stage of the process if requested by the child as a 'safety net' for complaints that cannot be resolved at the local level. The formal complaints procedure needs to confer a right of appeal or to seek an independent review of the complaint by an objective third party if the issue remains unresolved.

The literature also suggests that for a complaints procedure to provide an adequate safeguard children must have the facility to notify complaints to someone located outside of the organisation. Complaints requiring investigation should, in the interests of natural justice, include an independent element in their consideration to avoid agencies appearing to act as judges in their own cause. The UK Children Act 1989, section 26(4) for example, requires that at least one person who is not a member or officer of the local authority takes part in the consideration of the representation and any discussion about action to be taken. The person appointed should be neither a member nor an officer of the local authority. The key tasks of the independent person are to ensure that the process of investigation is open, transparent and fair and to work alongside the investigating officer to provide an independent objective element to the investigation.

It is vital that all concerns and complaints, whether dealt with in an informal or formal manner, are recorded and disseminated so that valuable lessons can be learnt from them in order to improve policy and services (Queensland Ombudsmen, 2006; Department of Disability, Housing and Community Services, 2009). In its first report on New Zealand, the UN Committee on the Rights of the Child was concerned about the lack of data in New Zealand's report in relation to "the registration of complaints from children".¹⁶ *The General Guidelines Regarding the Form and Content of Periodic Reports* (1996) state that reports by ratifying countries should provide detailed statistical information including quantitative information showing variations according to age, gender, region, rural or urban and social and ethnic group.¹⁷ This was reiterated in January 2009 by the Better Care Network and UNICEF in the publication *Manual for the Measurement of Indicators for Children in Formal Care*. This report states that data on the situation of children in care should be regularly collected and analysed...to develop an information system that will allow childcare agencies and local and national authorities to better monitor and improve the situation of children within care systems.¹⁸

If data is collected as to the number and nature of complaints made to complaint investigation bodies it will provide pointers to areas where children feel that their rights have been infringed. Without data as to the number and nature of complaints registered by children it is not possible to

¹⁶ CRC/C/15/Add.71 (24 January 1993) paras 13 & 25

¹⁷ para 7

¹⁸ UNICEF and Better Care Network (January, 2009). *Manual for the Measurement of Indicators for Children in Formal Care*, p. 1

create a profile of the areas in which children are suffering discrimination, disadvantage or infringement of their rights.

Quality assurance and accountability

Complaints provide valuable feedback for service providers to improve services. Complaint systems should be supported by regular monitoring to assure effectiveness and assist management in evaluating the quality of service provided. Information about who is raising concerns, their age and maturity, can lead to an examination of the accessibility and responsiveness of the complaint resolution process. If few or no complaints are from those children receiving services, this may indicate a need to review whether children know they can make a complaint and how to do so. The form and nature of complaints can also reveal whether standards are being met, identify staff training requirements and areas where policies and practices need to be clarified or changed to make the system more responsive to children. An effective complaint resolution process requires regular performance audits (ISO, 2004). Tracking, monitoring and analysing complaint data can reveal systemic and recurring issues and trends. Learning from the complaint resolution process requires that organisations track and report internally at periodic intervals and undertake more intensive annual reviews of the overall process. Reviews should include information on the number of complaints received, trends in the nature of complaints, and outcomes (ISO, 2004). Making information from these reviews publicly available improves accountability and transparency.

Section 3: What the children and young adults told us

In considering the quality of the Child, Youth and Family complaints procedure available to children who come in contact with Child, Youth and Family we thought it important to gain their views. By engaging with and listening to children we have the opportunity to:

- begin to understand some of the experiences and realities of children who are involved with Child, Youth and Family
- gain insight into the issues and concerns that children identify as important
- learn how policies and the provision of services impact on children's lives
- gain valuable insights into how we can better meet their needs.

As Smith and Taylor (2000) state:

Giving more prominence to children's voices is one way to ensure that child advocacy is well-founded and that decision-making is guided by a more complete picture of all the key issues.

The Office worked with Dingwall Trust and the Royal Oak office of Barnardos in Auckland to explore children's views and experiences of the Child, Youth and Family complaints procedure. Ten children and two young adults currently involved with Child, Youth and Family and three children and five young adults who have recently transitioned from care participated in the project. 11 females took part and 9 males. The participants came from two age groups: 14-17 years (children) and 18-20 years (young adults). They came from Auckland and were from diverse cultural backgrounds. Length of time in care ranged from one year to fifteen years. Four of the children and young adults had been in care less than 2 years. Six had been in care between two and five years, six between five and ten years, and four more than ten years. The number of placements ranged from one to eighteen. Three children and young adults indicated that they had had only one placement since coming into care. Three participants had been in two placements, five in three, four in seven, one in eight, one in nine, one in eleven, one in thirteen to fifteen and one in eighteen.

A schedule of questions was developed to ensure consistency in material gathered. These questions were set around the following themes:

- experience with the Child, Youth and Family complaints process
- awareness and understanding of the Child, Youth and Family complaints process
- current perception of the complaints process
- accessibility – What makes something child-friendly
- support and advocacy
- barriers.

This part reports back on what the children and young adults told us. Where possible their views have been set in the context of international and New Zealand research findings.

Experience with the Child, Youth and Family complaints process

The participants were asked if they had ever made a complaint to Child, Youth and Family. Only one young adult said that they had. This complaint was in relation to their living arrangements. They said that they told their social worker but that their social worker "just got angry at me and got a new social worker". When asked if they had been satisfied with the outcome of their complaint the young adult said that they hadn't been and that "they [Child, Youth and Family] didn't do anything but swap social worker". Because the young adult had not been satisfied with the outcome of the complaint they were asked if Child, Youth and Family had explained to them that they had the right to contact the Office of the Children's Commissioner or the Office of the Ombudsmen. The young adult said that this had not been explained to them. This young adult's experience of the complaints procedure is consistent with findings from the Waterhouse Report, *Lost in Care*, which emphasised how difficult children found it to make a complaint while being looked after and cited many examples of children who attempted to complain but whose voices

had not been heard.

The literature is clear about the importance children in care place on being able to express their views and concerns and of being listened to by adults prepared to act on what they have heard (Bromfield and Osborn, 2007; McNeish and Newman 2002; Sinclair, 2005).

Awareness and understanding of the Child, Youth and Family complaints process

For a complaint resolution process to be responsive, all children need to be aware:

- that there is a process
- how to use it when they need to
- how to be supported in the process.

All twenty participants were asked if they knew how to make a complaint to Child, Youth and Family if they were unhappy about something or they had not been treated well. The overwhelming response was that they did not. A couple of participants said that you could:

“Fill out a thing”...“Ring 0508 family”...“Call your social worker”...“Go to the Child, Youth and Family office”

Many of the participants said however that they would prefer to tell someone you can trust, citing family, youth worker or agency worker.

Current perception of the complaints procedure

The participants were asked if they would make a complaint if they had something to complain about. Twelve said that they would, three said that they would but that they would tell a youth worker/agency social worker, one said that they might make a complaint but that it would “depend who and what it is about” while the remaining four participants said that they would not make a complaint.

When participants were asked why they would not make a complaint, or what they thought would stop a child making a complaint they said that:

- they needed to know how to make a complaint
- they “don’t know how to say it”
- they “don’t want to be rude”
- it “depends who and what it is about”
- they “don’t get a reply when I call”
- they are “scared that it might not be kept confidential”
- they “don’t feel Child, Youth and Family would do anything about it”

Accessibility – What makes something child-friendly

Participants were asked what they thought about the complaints procedure, specifically whether they thought that it was clear and easy to understand. Only four of the twenty participants said yes. The remaining participants said that they didn’t really know what it is and that it is “too complicated, boring”, “a little confusing”. The participants were then asked what they thought Child, Youth and Family could do to make it more child-friendly. They said:

- “always be given a copy and have it everywhere”
- “make it easy to read”
- “less words”, “smaller words”, “more straightforward” – “there are too many hard words to understand”
- simple steps
- bullet points
- pictures/diagrams
- “more eye catching”, “graphics, fun, interesting”
- “People to explain it to us – social workers, caregivers, lawyers, youth workers”

- “be told about it all the time”
- “Child, Youth and Family do something about complaints”

The children’s views in this section of our inquiry are consistent with the findings from the 2005 Children’s Commissioner for Wales’s report *Children Don’t Complain*.

Participants were asked what they thought would be good ways for Child, Youth and Family to get information to children who come in contact with them. A large number said that Child, Youth and Family could create a website for children that could have all the information, including information on their rights and how to make a complaint. Child, Youth and Family could support Dingwall Trust in ensuring that the Charter of Children Rights and information about the complaints process is included on the *Care Café* website.

Participants also emphasized the importance of social workers taking them out “one on one” to talk with them and to go through this information verbally with them. One group went as far as saying that Child, Youth and Family should

Make it compulsory that a social worker explain it to you and have a relationship with you

One group also suggested that every child be called once every three months by someone who is not their social worker or someone who works with them. Another group suggested something similar stating that “once a year someone could check to see if you have any complaints”. They said that this could be a good way to check to see if everything is alright with them. The children were very quick to note the importance of these calls being kept confidential.

Participants also said that Child, Youth and Family could create booklets/pamphlets with pictures/graphics and make sure that children receive a copy. They said that this could be done by their social workers or someone else giving them a copy and going through this information, it could be posted out to them and also be able to be accessed at school.

The children said that Child, Youth and Family could also communicate with them through creating a newsletter, sending bulk texts to them, or through creating a Bebo or Facebook page.

Support and advocacy

The children were asked what they thought would make it easier for children to make a complaint. Participants said that it is important that all children who come in contact with Child, Youth and Family are given information about their rights, are told that they can complain, how to do this and that they are given a “complaints form to keep handy”.

They stressed the importance of Child, Youth and Family taking their “complaints seriously – listen – act on it”. Participants spoke about the importance of social workers following up on their complaints promptly, specifically that Child, Youth and Family social workers answer their phones or call them back. One participant said:

Make us feel like we are important enough to be contacted back.

They also said that they wanted to be kept informed about the progress of the complaint if they were to make one.

The children were also very clear that they want to be able to “talk to someone you can trust, who can support you” in making a complaint. The participants identified family, friends, youth worker or agency.

They said that caregivers could have complaint forms available to them and suggested that a “complaints phone line” be set up with a person who just deals with complaints. They said that it would be important that this phone call be free, that they could get hold of them easily and that this person always phones them back. They also said that it would be good to be able to email or text

in complaints to such a person.

When the children were asked who they would prefer to support them in making a complaint, they named their friends and family members as those they most trusted, although these were seen as "a witness" rather than in an advocacy role. A large majority of the children felt that their complaint would not be taken seriously unless they were supported by an adult - although one individual did say "it depends on what it is".

Barriers

Finally, participants were asked if they thought that there is anything that could make it hard or stop children getting information about their rights and how to make a complaint and were then asked what they thought that Child, Youth and Family could do to overcome these barriers.

The children said that "changing social workers so much" can stop children getting information about their rights and how to make a complaint. They say that this is "because they can just assume that you know all the info, and don't inform you". Participants said that Child, Youth and Family needed to try not to change their social workers so often so that that had greater stability. They also said that it is important that "social workers are open-minded" and that they are visited more.

Otherwise the children said that just not being given the information was a barrier:

"No access to information"

"Not knowing how"

"When you don't receive a copy of your rights"

"Yes, you can't get info on something you don't know exists"

"No access to the internet"

"No access to the phone"

They said that it is important that children are told that they are allowed to, and able to, use the tollfree number (0508 family) on street phones and at school.

Participants said that Child, Youth and Family needs to make sure that all children are given information about their rights and how to make a complaint when they first come into contact with Child, Youth and Family and then with every new social worker. They also suggested that children are informed about their rights and how to complain regularly and that someone who is not their social worker or working with them should call them once every three months to see if everything is ok. Participants also suggested that they be given a complaint form at this time so that they don't have to ask for one.

Participants also said that they feel less powerful, could often be embarrassed and be scared of making a complaint. One child said that they thought that it is

Scary to make a complaint to Child, Youth and Family, they don't take your complaints seriously. They won't give you a complaint form without a strong reason, tell you they can sort it with out giving you a form or making it formal enough. Also there is no follow up.

The majority of participants spoke of being scared of the consequences stating:

"Scared that you may get in trouble with caregivers"

"Feeling like you will get treated differently if you complain"

"Scared of the consequences"

"Scared"

Participants also said that "parents and caregivers may not let you make a complaint". They suggested that Child, Youth and Family could include information about children's rights, including how to complain in caregiver training.

Participants spoke about the importance of having someone they could talk to and in needing someone to talk to they can trust. Some children spoke about having “difficulty in communicating” but that it would be made easier to have someone neutral or close to them they could talk to and who could help them. Participants suggested that independent support people could be made available to them to support them in making a complaint.

Summary

We cannot see the views of the thirteen children and seven young adults in this project as representative of the experiences of all children who come in contact with Child, Youth and Family. However, their experiences are very similar to those reported in other studies. Of particular significance is that few of the children involved in the project were aware of their rights or how to make a complaint. Most said they were unaware of Child, Youth and Family’s complaint process and that their social workers had not explained this or their rights to them. The children who took part in this inquiry were very clear that they wanted independent advocacy and support to be made available to them to help them in raising issues, concerns and complaints with Child, Youth and Family.

Section 4: What the community partners told us

This inquiry sought the views of the Royal Oak office of Barnardos and Dingwall Trust, the two community partners who took part in the focus groups. This part reports back on what they told us.

Previous experience in supporting a child in making a complaint to Child, Youth and Family

Community partners were asked whether they had supported any children to make a complaint to Child, Youth and Family within the last two years. One community partner said that they had on one occasion but that more often than not they will intercede for a child to rectify an issue and protect the child throughout.

Even as seasoned professionals – raising issues of practice with the Ministry is difficult and fraught, and on most occasions leaves us dissatisfied. We do not have confidence that the current complaints process offers sufficient protection to children.

The other community partner also stated that they had made a complaint directly to Child Youth and Family on behalf of a youngster in one of their foster care placements.

The nature of the complaint/s

Community partners were then asked to provide some detail about the nature of each of these complaints. One stated that “it was regarding the lack of response to the young person in question’s calls and voice messages on her social worker’s phone, and also email”. The other community partner gave some detail about a complaint they had made about a lack of visits to a child in care.

Process followed in supporting the child to make their complaint to Child, Youth and Family

Community partners were asked what process they followed in supporting a child to make a complaint to Child, Youth and Family. One partner said that the child wrote a letter of complaint to the Child, Youth and Family office in question, with their personal advisor’s support. The other was made directly by the organisation on behalf of the child.

Perception on how the complaints were managed by Child, Youth and Family

Community partners were asked for their opinion about how they thought Child, Youth and Family had managed the complaint and what sort of response the child received. One stated that the child received “no response from the Department at all in regards to her complaint”. The other partner said that “There has been little response to this complaint and no formal acknowledgement in writing. There have been no visits from the social worker this year. We are now in May. Her only visit of last year took place in November 2009”.

Outcome of the complaints

Community partners were asked whether the child had been satisfied with Child, Youth and Family’s response and if not, why not. One said that she had not been and that she “felt that she had not been heard by the Department and that her concern was not valid”. The other community partner said that they were “*Not sure if [name] understands the complaint process. Consideration needs to be given as to how children with a learning difficulty access the complaints procedure*”.

Improving the process for children

Community partners were asked for their views on how they thought that the Child, Youth and Family complaints process could be improved for children. One stated:

It should go to a separate entity that manages the complaints and responds as needed, as currently it does not support our young people to make complaints and feel heard, or see an outcome from it. Ideally this would be a body such as the Commission for Children’s office. It would see an informed body manage the complaint from the outset – ensuring that the child is facilitated to raise their issue and protected throughout any ensuing investigation. The investigation would need some independence from those the complaint was about. The concept that the child or young person should first try to resolve the issue with the Ministry directly is un-workable and unsafe (as shown by our example). Such a

concept may be workable and recommended between adults, or organisations, but is patently unworkable where children or young people are involved – it actually works against the complaint being voiced and ultimately dealt with.

The other partner felt that the complaints procedure needs to be routinely discussed with children once they enter the care system, that an independent body monitors to ensure complaints are followed through in a timely robust manner and that Counsel for Child, Youth Advocates and caregivers are made aware of the complaints process.

Any other comments

Finally, community partners were asked if they had any other final comments to make. One said:

By their nature children in care are disempowered. In the children's eyes the Ministry social workers are all powerful – so much so that they can do powerful things like separate children from their parents. As such it is unrealistic to expect those children to dare to raise issues about the practice of those who hold so much power. The risk of retribution is too great. The relevant point of this exercise is not what happened when a complaint was made – but the fact that hardly any complaints have actually been made. We as an organisation would not advise our young people to complain under the current process.

The other partner stated that “There appears to be a mismatch between responses to complaints made by adults and those made by or on behalf of children. Being really cynical this might reflect the wider view of the lack of regard children are held with in our society. So many areas appear to be very much weighted in favour of adults eg family court delays”.

Section 5: Discussion and conclusions - opportunities for improvement

Children have a right to receive information about their rights in a manner which is accessible and easily understandable. They also have the right to express their views whenever any decisions are being made that will affect their lives, this includes having the right to receive relevant background information and an explanation of the reasons for such decisions. This right is particularly important when children perceive that things are going wrong or they are dissatisfied with a service. This places an obligation on Child, Youth and Family to provide children with the opportunity and mechanisms to have their views heard, given due weight and that they are able to participate in decision-making. This includes mechanisms to have their complaints or concerns heard in a manner that supports their participation and wellbeing.

This report draws attention to the fact that, due to age and vulnerability, children may require extra supports to access and use the Child, Youth and Family complaints procedure. For Child, Youth and Family's complaints procedure to give meaningful expression to children's rights, a child-sensitive procedure must be in place which includes child-friendly information, advice and advocacy and access to independent complaints procedures.

A system that is based on consideration of the child's best interests and ensures that a child is heard and their views considered leads to better planning and decision making for individual children. Timely and meaningful participation of a child can not only contribute to resolving a complaint effectively, it can build resilience and competencies in children and support several developmental processes. Children can gain the ability to challenge abusive behaviour and protect themselves by having appropriate standards of care modeled by their caregivers and guardians.

How we respond to concerns and complaints is an important aspect of continuously improving service quality and supporting organisational learning. Concerns and complaints provide valuable information that can identify the need for correction and opportunities to improve services for an individual child and the system at large. Responsive and effective complaint mechanisms can also support positive relationships between the organisation and the child it serves. Complaint resolution data available to Child, Youth and Family on a regular basis will provide greater clarity on how the complaint resolution process is working, as well as information to strengthen policy and practice.

This inquiry has focused on ways to improve Child, Youth and Family's complaints procedure so that it becomes more child-centred. We have noted the importance of quality relationships with social workers, awareness and accessibility issues by children, the need for advocacy services being made available to children who come in contact with Child, Youth and Family and the need to strengthen recording and monitoring for continuous learning purposes. This review found a number of opportunities for improvement to both policy and practice in order to make the complaints process more accessible and child-centred.

The following recommendations are made to assist Child, Youth and Family in making their complaints procedure more responsive and effective for children.

Section 6: Recommendations

I recommend that the Deputy Chief Executive, Child, Youth and Family:

- review and evaluate the effectiveness of the complaints process in respect of children, considering information about the number and nature of complaints received by, or on behalf of children, the outcomes for these and any trends or issues which may arise from the analysis.
- ensure effective procedures are in place to receive, hear, determine and address complaints from children.

As part of that review and evaluation, the Deputy Chief Executive might consider each of the following:

Improving awareness

- develop and implement approaches for reaching out to children, to promote awareness and understanding of their rights and the complaints process.
- develop processes to regularly solicit views of children in all decision-making that affects them.

Improving advocacy support

- develop access to advocacy support services to support children who wish to raise a concern or make a complaint

Data analysis and reporting

- require that complaints made by children, whether formal or informal, are systematically recorded and reported on. Details should be collected on the number and type of complaints, timeframes, feedback and action, complaint decisions and outcomes, whether the complainant was satisfied, whether the child was provided with information and an opportunity to take their complaint to the MSD CE Advisory Panel, Children's Commissioner, Office of the Ombudsmen; and any opportunities for systemic improvement.

Quality assurance

- set up regular, random audits of regional processes to assess adherence to established policy and processes.
- require an annual quality assurance report on complaints that provides a summary of aggregate complaint data and actions taken to improve complaint policy and processes and overall service quality, including staff training requirements and areas where policies and practices need to be clarified or changed to make the complaints procedure more responsive to children.

Staff and caregiver training

- consider how all new staff and caregivers receive information on the complaints procedure and advocacy services available to children and how regular training might be provided.

Contracted services

- consider how well approved providers and contracted services are ensuring their complaint resolution policies and procedures are consistent with the principles of child-centred complaint resolution.

Ministry of Social Development Chief Executive advisory panel

- alert the Chief Executive's advisory panel to this inquiry and ask that consideration be given

to finding ways to encourage children to participate in the process¹⁹; and ensuring the panel

- acts in accordance with the United Nations Convention on the Rights of the Child;
- safeguards and promotes the rights and welfare of the child concerned;
- ascertains, records and takes into account the wishes and feelings of such children;
- prioritises, at all times, the best interests of such children; and
- where the complaint is made by a person deemed to have a sufficient interest in the child's welfare, where appropriate, seek the child's views with regard to the complaint.

¹⁹ The panel might find it useful to consider a model used in Queensland where the Queensland Civil and Administrative Tribunal (QCAT) was established under the Children Services Tribunal Act 2000.

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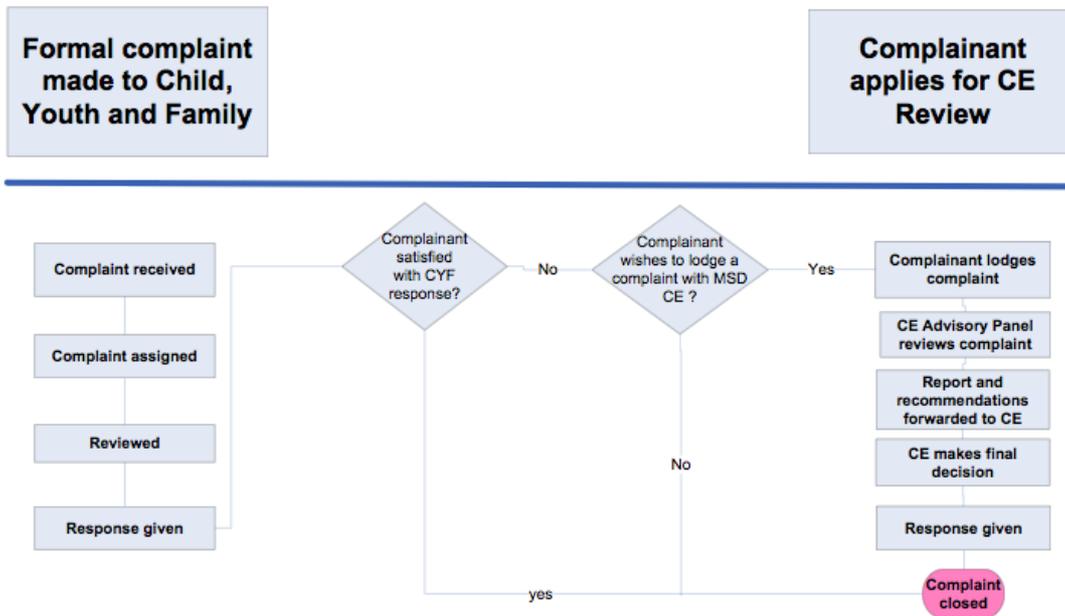
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Appendix 1

Child, Youth and Family Complaints Process



Child, Youth and Family Complaints Process

Overview

Responsibility	Action	Resource
Everyone	Try to resolve the issue immediately with the client	
Step 1 Everyone	If the issue can't be resolved immediately, ask the client to complete a complaint form Let the client know that the site manager will be in touch. Give the completed complaint form to the site manager	Complaint form
Step 2 Site Manager	Register the complaint in the site complaints spreadsheet and note the CYRAS record. The spreadsheet is sent to the Regional Executive Manager (REM) monthly. The site manager also advises the REM weekly of any complaints that have passed the ten day point without resolution – this enables the REM to provide any necessary guidance or assistance.	Complaints spreadsheet
Step 3 Site Manager	Escalate the complaint to the REM: if it is a serious event (the REM then follows the serious events process) if the site manager is not independent of the case - the REM then allocates the case to another manager to investigate. This manager is then responsible for managing the complaint and following all the agreed steps beginning with sending an acknowledgement letter Otherwise the site manager will: ask an experienced, qualified and registered social worker to undertake a review (this person is the 'review officer') send an acknowledgement letter to the complainant (<i>within 5 working days of receipt</i>)	Acknowledgement letter



Step 4 Review officer template	Begins the review of the complaint and discusses the proposed resolution with the complainant. Notes all actions in the complaint report template.	Complaint report
	If the complaint will take more than 20 days to resolve, by day 10 the review officer will ensure the site manager sends an extension letter to the complainant.	Extension letter A
	Provides completed report and draft response letter to the site manager	
Step 5 Site Manager	Reviews report. If a resolution has been template agreed with the complainant, signs and sends out the final response letter to the client. The complaint file is then closed 10 days after the letter is sent	Final response letter
	If resolution is NOT reached, or is partially reached, sends the report and draft response letter to the Regional Director for their review.	Extension letter B
	If this will result in the agreed timeframe needing to be extended, the site manager sends extension letter B to the complainant.	
Step 6 Regional Manager/Regional Director	<p>On behalf of the Regional Director, the Regional Executive Manager:</p> <ul style="list-style-type: none"> • reviews the complaint report, discusses the complaint with the site manager and consults others as required • determines what alternative action or investigation (if any) should be undertaken • updates the complaint report and drafts the final response letter to the complainant • the Regional Director reviews the complaint report and the final response letter and if they agree with the findings, they sign off the report. If they don't agree, directs further action 	
Step 7 Site Manager	Signs and sends the final response letter to the complainant. The complaint file is then closed 10 days after final letter is sent	
<p>Things to remember: All written communication to the client must be signed by the site manager</p>		

Appendix 3

Roles and Responsibilities

Regional Directors

Regional Directors are responsible for:

- implementing, managing, developing, resourcing and administering the complaints resolution procedure within their regions
- ensuring adherence to complaints policy and procedures by their managers.

Regional Executive Managers

Regional Executive Managers (REM) are responsible for:

- overseeing the complaints procedure by:
 - promoting local resolution
 - monitoring the progress of complaint resolution and ensuring the process runs smoothly
 - monitoring and reporting on timeframes
 - maintaining a written record of complaints made in the region. This should include the procedure followed and the outcome reached compiling reports as required
- ensuring a comprehensive, open, transparent and fair consideration of the complaint by:
 - ensuring there are no conflicts of interest at any stage between parties involved in the process
 - providing a check on unresolved complaint's reports from the Review officer and the Child, Youth and Family response to a complainant
- supporting the organisation by:
 - providing guidance, advice and support to staff on the management of complaints
 - organising appropriate training for the region
 - providing input into the arrangements for media
 - reporting on the numbers, types, outcomes and trends of complaints to inform practice, development and service planning
 - monitoring that the commitments that have been given in responses are implemented.

Operations/Site Managers

The responsibilities of the Operations/Site Managers are to:

- ensure staff adhere to complaints policy and procedure
- ensure there are no conflicts of interest at any stage between parties involved in the process
- ensure an review of the complaint is undertaken by an appropriate person
- promote local resolution
- monitor the progress of the review and that it runs smoothly
- provide guidance, advice and support to staff on management of complaint
- support staff who have been complained about during the Complaints Resolution Policy and Procedure
- facilitate complainants access to support such as interpreters
- organise appropriate staff training
- ensure that the commitments given in responses are implemented.

Appendix 4

UK National Standards for the Provision of Children's Advocacy Services

The *National Standards for the Provision of Children's Advocacy Services* were issued as section 7 guidance in November 2002. A summary of the headings from the standards follows:

The Standards:

- Standard 1 Advocacy is led by the views and wishes of children and young people.
- Standard 2 Advocacy champions the rights and needs of children and young people.
- Standard 3 All advocacy services have clear policies to promote equalities issues and monitor services to ensure that no young person is discriminated against due to age, gender, race, culture, religion, language, disability or sexual orientation.
- Standard 4 Advocacy is well-publicised, accessible and easy to use.
- Standard 5 Advocacy gives help and advice quickly when they are requested.
- Standard 6 Advocacy works exclusively for children and young people.
- Standard 7 The advocacy service operates to a high level of confidentiality and ensures that children, young people and other agencies are aware of its confidentiality policies.
- Standard 8 Advocacy listens to the views and ideas of children and young people in order to improve the service provided.
- Standard 9 The advocacy service has an effective and easy to use complaints procedure.
- Standard 10 Advocacy is well managed and gives value for money.