

<b>Program Area: Quality Assurance Ministry of Children and Family Development</b>	<b>Policy</b>
<b>Effective Date:</b> October 15, 2012	<b>Policy Number or Section:</b>
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## **COMPLAINTS POLICY**

### **Policy Statement**

1. The complaints resolution and administrative review process is accessible and adheres to the principles of administrative fairness.

### **Outcome**

- The issues underlying complaints received are addressed.
- Anyone who wants to make a complaint can easily access the complaints process.
- Complainants and advocates are treated respectfully during the complaints process.

### **Standards**

- 1.1** Information about the right to make a complaint and about the complaints process is available to anyone.
- 1.2** Complaints can be made to any MCFD or Delegated Aboriginal Agency (DAA) staff person.
- 1.3** Complaints are assessed for acceptance using the criteria in policy.
- 1.4** The decision whether a complaint is accepted or not is documented and written reasons for the decision are sent to the complainant within 7 days of receiving the complaint.
- 1.5** Complaints are documented and tracked.

## Procedures

### Receiving a complaint

- When a complaint is made to a staff person, the complainant's concerns and contact details are forwarded to the complaints specialist and the complainant is provided with information on how to contact the complaints specialist directly.
- The complaint specialist makes every effort to contact the complainant as soon as possible.

### Criteria for accepting or not accepting a complaint

- Complaints are accepted when they are about a decision, act or failure to act related to an MCFD service or delegated services provided pursuant to the *CFCSA* by a delegated Aboriginal Agency (DAA).
- Complaints are accepted from:
  - anyone who receives MCFD services or DAA delegated services or who believes they should receive MCFD services or DAA delegated services;
  - a person representing anyone who receives MCFD services or DAA delegated services or who believes they should receive MCFD services or DAA delegated services; and
  - The Representative for Children and Youth (RCY).

A complaint may not be accepted if:

- The child/ youth, young adult or complainant does not want to proceed with the complaint; or,
  - The matter is before the courts or the remedy sought would conflict with an order or decision of the court; or,
  - The matter is eligible for a review panel hearing under the *Mental Health Act*; or
  - The matter is eligible for a review under another enactment or regulation other than the *Ombudsperson's Act*; or
  - The complaint concerns matters to related youth justice services, and the person making the complaint is not authorized to access information under the *Youth Criminal Justice Act*; or
  - The matter is eligible for a foster parent review or appeal.
- The decision to accept or not accept a complaint is documented.

### **Notification Regarding Acceptance**

- The complainant is told as soon as possible in person, or by phone, whether or not the complaint is accepted.
- If the complaint is accepted, the complainant is sent a letter within 7 days of the complaint specialist receiving the complaint that accepts the complaint; outlines the issues identified; and describes the complaints process.
- If the complaint is not accepted, the complainant is sent a letter within 7 days of the receipt of the complaint that provides the reasons why the complaint is not accepted and describes the options for external reviews.

### **Options for Resolution or Administrative Review**

- The complainant may choose to participate in resolution or request an administrative review.
- The complaints specialist discusses with the complainant the options for resolution or administrative review and provides details and benefits of each process.
- The 30 day time frame for resolution and administrative review begins when the complainant advises the complaints specialist which option is chosen. The complaints specialist documents the date and which approach the complainant wishes to use.
- The complaints specialist advises the involved staff of the complaint as appropriate.

### **Decision Not to Proceed with a Complaint**

- Circumstances can change during a complaints process. It may be decided not to proceed with a complaint if:
  - The child/ youth, young adult or complainant does not want to proceed with the complaint; or,
  - The matter is before the courts or the remedy sought would conflict with an order or decision of the court; or,
  - The matter is eligible for a review panel hearing under the Mental Health Act; or
  - The matter is eligible for a review under another enactment or regulation other than the Ombudsperson's Act; or
  - The complaint concerns matters to related youth justice services, and the person making the complaint is not authorized to access information under the Youth Criminal Justice Act; or
  - The matter is eligible for a foster parent review or appeal.
- The decision not to proceed with resolution is made by the complaints specialist.
- The decision not to proceed with an administrative review is made by the review authority.

- The decision not to proceed with a complaint is documented and the complainant is notified in writing within 7 days of the decision not to proceed and the reasons for the decision.

### **Misconduct, Criminal Conduct and Child Safety Concerns**

- Where the complaint concerns allegations of negligence or misconduct on the part of an employee, an investigation must occur that is separate and apart from the complaints process and consistent with any relevant legislation, collective agreements, and personnel policies.
- When a complaint concerns allegations of criminal conduct, the matter will be reported to the appropriate police force or Royal Canadian Mounted Police detachment.
- When the complaint raises child protection concerns, the matter will be reported to the appropriate child protection staff.
- Despite reporting matters to police, child protection staff or personnel staff, the complainant may still want to proceed with resolution or administrative review of the complaint concerns. The complaints process will be conducted in a manner which does not interfere with criminal or child protection investigations or with personnel processes.

## Policy Statement

- 2 The importance of advocates in supporting complainants to access the complaints process, identify complaint issues, and to express their views is recognized.

## Outcome

- Complainants feel supported to involve advocates in the complaints process.
- The views of complainants are heard and understood.

## Standards

- 2.1 An advocate participates in the complaints process with the agreement of the complainant.
- 2.2 The complainant provides informed written consent to share specific and legally permissible information with the advocate. (Note that the *Youth Criminal Justice Act* has specific provisions regarding access to and disclosure of information which does not permit a complainant to give consent for access to and disclosure of information, and which restricts subsequent disclosure of information.)
- 2.3 A complainant's advocate is treated with respect.

## Procedures

- Information is shared or not shared according to the *Freedom of Information and Privacy Protection Act*; the *Youth Justice Act*; the *Youth Criminal Justice Act*; the *Child Family and Community Service Act* and other relevant acts and regulations.
- Ministry and DAA staff will provide information about advocates and assist the complainant to access an advocate if requested.
- An advocate can initiate a complaint with the ministry. After receiving the complaint information, the complaints specialist will contact the complainant and confirm the advocate is acting for the complainant.
- The RCY can make a complaint in her own right, or can provide advocacy support to young people. The complaint specialist will clarify with the RCY what role is being taken when the RCY is involved.
- The complaints specialist, advocate and complainant will agree on how they will communicate with each other during the complaints process. For example, the complainant may request that the advocate is the only point of contact for the complaints specialist.

## Policy Statement

3 Resolution is an opportunity to solve complaints issues close to the local level.

## Outcome

- Complainants experience timely solutions to the underlying issues in their complaints.
- Helping relationships are sustained or enhanced.
- Most complaints are solved through resolution.

## Standards

- 3.1 The resolution phase of the complaints process is completed within 30 days of the complainant choosing resolution, unless there is agreement between the complainant and the ministry that the timeline be extended.
- 3.2 Within 7 days of completing the resolution, a letter describing the outcomes is sent to the complainant.

## Procedures

### Resolution Phase

- When the complainant chooses resolution, the complaints specialist advises involved staff of the complaint details and whether there is an advocate.
- The involved staff contact the complainant and/or advocate as soon as possible to acknowledge the complaint and confirm the complainant's issues; and to initiate resolution.
- Involved staff make every effort to resolve the complainant's issues during resolution.
- The complaints specialist can assist with resolution by providing facilitation, or other supports as required.

### Decision Not to Proceed with Resolution

- Circumstances can change during the complaints process. It may be decided not to proceed with resolution if:
  - The child/ youth, young adult or complainant does not want to proceed with resolution; or,
  - The matter is before the courts or the remedy sought would conflict with an

- order or decision of the court; or,
- The matter is eligible for a review panel hearing under the Mental Health Act; or
- The matter is eligible for a review under another enactment or regulation other than the Ombudsperson's Act; or
- The complaint concerns matters to related youth justice services, and the person making the complaint is not authorized to access information under the Youth Criminal Justice Act; or
- The matter is eligible for a foster parent review or appeal.
- The decision not to proceed with resolution is made by the complaints specialist.
- The decision not to proceed with resolution is documented and the complainant is notified in writing within 7 days of the decision not to proceed and the reasons for the decision.

### **Resolution Timelines**

- An extension of a specified period of time can be agreed by the complainant and the ministry. There can be more than one extension.
- Resolution ends when:
  - the complaint is resolved to the satisfaction of the complainant; or
  - the 30 day period for resolution ends without an agreement or an extension; or
  - the complainant requests an administrative review.
- Resolution phase is complete when a letter is sent to the complainant outlining the outcome, including any agreements and actions to be taken and the complainant's right to request an administrative review of the matter.

## Policy Statement

- 4 An administrative review provides an examination of the complaint issues by a review authority, who has not been involved in matters related to the complaint.

## Outcome

- Upon request complainants have their complaints reviewed and decided by an uninvolved review authority.

## Standards

- 4.1 Complainants can request an administrative review at any point in the complaints process.  
4.2 The administrative review is complete within 30 days of the request for an administrative review unless the complainant agrees to an extension.  
4.3 Complainants and the relevant staff are advised of the administrative review conclusions and recommendations in writing within 7 days of the decision.

## Procedures

### Request for an Administrative Review

- The complaints specialist:
  - receives and documents the request for an administrative review, including the issues identified by the complainant,
  - designates an uninvolved person to be the review authority for the administrative review,
  - provides the review authority with details of the administrative review request.

### Uninvolved Review Authority

- A person will not conduct an administrative review for any complaint in which the person has been directly involved, has been in a position responsible for making or overseeing decisions made with respect to the complaint.



### **Conducting the Administrative Review**

- The review authority bases the administrative review conclusions and recommendations on relevant information:
  - provided by the child/ youth, or young adult, complainant, advocate, staff, or others as required; and
  - contained in files, letters, emails, and other documents.

### **Decision Not to Proceed with a Complaint**

- Circumstances can change during a complaints process. It may be decided not to proceed with the administrative review if:
  - The child/ youth, young adult or complainant does not want to proceed with the administrative review; or,
  - The matter is before the courts or the remedy sought would conflict with an order or decision of the court; or,
  - The matter is eligible for a review panel hearing under the Mental Health Act; or
  - The matter is eligible for a review under another enactment or regulation other than the Ombudsperson's Act; or
  - The complaint concerns matters to related youth justice services, and the person making the complaint is not authorized to access information under the Youth Criminal Justice Act; or
  - The matter is eligible for a foster parent review or appeal.
- The decision not to proceed with an administrative review is made by the review authority.
- The decision not to proceed with a complaint is documented and the complainant is notified in writing within 7 days of the decision not to proceed and the reasons for the decision.

### **Administrative Review Phase Timelines**

- The administrative review is completed within 30 days of the request for an administrative review, unless an extension of a specified period of time can be agreed by the complainant and review authority. The agreement can be renewed.

### **Requesting Resolution after an Administrative Review has Begun**

- At any point before an administrative review ends, the complainant may decide to move to resolution.
- If the complainant decides to participate in resolution after an administrative review has begun, the administrative review is ended, without a conclusion or recommendations, on the date of the complainant's request and the resolution timeline begins.

- If the complainant subsequently makes a new requests for an administrative review, the initial administrative review is reinstated. The reinstated administrative review is completed within 30 days of this new request unless the complainant and review authority agree to an extension.

### **Administrative Review Conclusions and Recommendations**

- In arriving at a conclusion, the review authority must consider:
  - the information the review authority reviewed including relevant legislation and regulations; policies and procedures; interviews with relevant people; and
  - available resources.
- At the conclusion of the administrative review, the review authority can make recommendations provided that the recommendations can legally be done in the circumstances under review.
- The complainant and relevant staff are advised as soon as possible of the review authority's conclusion and any recommendations.
- The review authority sends a letter to the complainant; child/youth or young adult who is subject of the review, unless it is not in the child/youth or young adult's best interest to receive the letter; and to the relevant staff within 7 days of the conclusion of the administrative review advising them of the review authority's conclusions, and any recommendations. The letter also summarizes the information considered; reason for the conclusions and any recommendations; and provides the options for external review.
- Once the administrative review is concluded, the complaint issues will not be addressed further within the complaints process. The complainant may have options for external review.

## References (Relevant legislation, other policies, standards, literature)

### **Legislation Applicable to all Program Areas:**

*Freedom of Information and Privacy Protection Act*  
*Representative for Children and Youth Act*

### **Legislation and Selected Regulations Applicable to Specific Program Areas:**

#### **Child welfare; Child/Youth Special Needs; Child/Youth Mental Health -**

*Adoption Act*  
*Adoption Agency Regulations*  
*Child, Family, and Community Service Act*  
*Child, Family, and Community Service Act Regulation*  
*Mental Health Act*  
*Mental Health Regulation*  
*Forensic Psychiatry Act*

#### **Child Care Programs and Services**

*Child Care Subsidy Act*  
*Child Care Subsidy Regulation*  
*Community Care and Assisted Living Act*  
*Child Care Licensing Regulation*

#### **Youth Justice**

*Youth Justice Act*  
*Youth Criminal Justice Act*  
*Youth Custody Regulation*

#### **Policies:**

Advocacy Protocol between MCFD and the RCY  
Presumption in Favour of Collaborative Decision Making

#### **Other Information:**

Child Rights in Practice: Practitioner Resource (January 2012) MCFD  
Hearing the Voices of Children and Youth (January 2010) Ombudsperson and Representative for Children and Youth Report.

#### **UN Conventions:**

United Nations Convention on the Rights of the Child  
United Nations Convention on the Rights of Persons with Disabilities  
United Nations Declaration on the Rights of Indigenous Peoples