

Joint Special Report



Hearing the Voices of Children and Youth

**A Child-Centred Approach
to Complaint Resolution**

January 2010

This is a summary of the full report.

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REPRESENTATIVE FOR
CHILDREN AND YOUTH



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B.C.'s Independent Voice For Fairness

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January 19, 2010

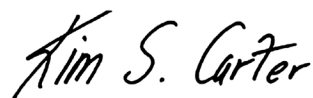
The Honourable Bill Barisoff
Speaker of the Legislative Assembly
Suite 207, Parliament Buildings
Victoria, BC V8V 1X4

Dear Mr. Speaker,

We have the honour of submitting to the Legislative Assembly of British Columbia this joint special report, *Hearing the Voices of Children and Youth: A Child-Centred Approach to Complaint Resolution*. This report is prepared in accordance with Section 6 of the *Representative for Children and Youth Act*, which makes the Representative responsible for monitoring and reviewing the provision of services and commenting publicly upon her findings, and Section 31 of the *Ombudsperson Act*, which enables the Ombudsperson to make a special report and comment publicly about matters relating to the duties of the Ombudsperson.

Hearing the Voices of Children and Youth: A Child-Centred Approach to Complaint Resolution focuses on how to appropriately engage young people in speaking out, how to ensure children and youth have a voice in matters that affect them, and how the Ministry of Children and Family Development can strengthen its complaint resolution process to ensure that it is child-centred. It is also our hope that other child and youth-serving organizations find the best practice framework for a child-centred complaint resolution process useful in establishing their own processes.

Sincerely,



Kim Carter
Ombudsperson



Mary Ellen Turpel-Lafond
Representative for Children and Youth

pc: Mr. E. George MacMinn, QC
Clerk of the Legislative Assembly

Ms. Joan McIntyre, Chair, Select Standing Committee on Children and Youth

Introduction

When it comes to resolving complaints, children and youth – particularly those living outside the parental home – have unique needs. Like clients of any organization, young people receiving services from the government need to have a say in decisions that affect them and to be able to express their dissatisfaction with service. They need to know they have the right to complain, that it's okay to complain and there are processes in place for them to do so.

At any given time in the past year, nearly 16,000 British Columbia children and youth lived out of the family home, more than half of them in care. While most young people have a parent or guardian to advocate for them and ensure their rights are respected, their views heard and their needs met, for children and youth in care, the government is their guardian. When the government is acting as a guardian it needs to listen as a caring parent would and make thoughtful decisions that consider the views of the child.

Young people need ways to express concerns that work for them – accessible, effective and responsive ways to complain, with government responding as a kind and judicious parent. When youth make a complaint, they need it to be resolved quickly.

For the complaint process to work, children and youth need to be aware of it and able to use it. This review found there is no common complaint process in place for programs and services to children and youth across British Columbia, and that while there are promising examples of complaint resolution in the province, young people generally don't know they exist.

"I never knew about the process, and I'd like to be educated about it more, so in the present and future I know how to resolve a situation properly without my rights being violated," one former youth in care told this review.

.....

In the 2006 "BC Children and Youth Review" the Honourable Ted Hughes, QC, recommended that MCFD have a complaint system that young people would find accessible, easy to use and would provide a timely response.

In conducting this review the Representative and the Ombudsperson used a child-centred framework to examine the complaint resolution processes of the MCFD regional operations and of B.C. delegated Aboriginal Agencies.

A responsive child-centred complaint resolution process has the key elements of awareness, accessibility, and timeliness. It must be fair and transparent, and incorporate quality assurance and accountability.

"We have to remember, when dealing with disagreements involving children, that children's lives go by very quickly, and a process that takes weeks to produce a permission slip for a field trip is beside the point, from the child's perspective."

– Hughes Review

Introduction

Children need to know that:

- they can complain about services
- they should start by contacting the ministry
- if they're not sure who to talk to or how to proceed they can contact the Office of the Representative for Children and Youth
- if they complain and are unhappy with the process or responses they receive they can contact the Office of the Ombudsperson.

Please note that this document is a summary report only. A full report, containing more in-depth explanations, research, examination of key elements of a child-centred complaint resolution approach, and analysis of the issues covered, is available online at www.rcybc.ca and www.ombudsman.bc.ca.

Review Findings

This review found that MCFD's regional complaint resolution process operates under a legal framework that lends itself well to a child-centred approach. However, from this review, the Representative and the Ombudsperson identify seven opportunities for improvement:

Opportunity for Improvement #1 – Timeliness

MCFD amends its Provincial Complaint Resolution Policy to ensure adherence to the 30-day time limit for resolving complaints as outlined in the *Child, Family and Community Service Regulation*.

Details:

- Amend the Provincial Complaint Resolution Policy to reflect the 30-day time limit by April 1, 2010.
- Full implementation of the 30-day time limit in the regions by October 1, 2010.
- Commence public reporting on meeting the 30-day time limit as part of a semi-annual quality assurance report on complaints.

Opportunity for Improvement #2 – Fair and Transparent Administration

MCFD amends its supporting regulations and its Provincial Complaint Resolution Policy to adhere to the principle that a person involved in a matter under review is not designated as a review authority for that matter.

Details:

- Amend the *Child, Family and Community Service Regulation* to remove the phrase “wherever practicable” from the requirement “wherever practicable, a person who was involved in the matter under review must not be designated as a review authority for that matter” by April 1, 2010.
- Amend the Provincial Complaint Resolution Policy to include the requirement that a person not involved in the matter under review be the final review authority for that matter as outlined in the Regulation by April 1, 2010.
- Amend regional complaint resolution information materials to identify processes available to address issues of administrative fairness by an objective third party by October 1, 2010.
- Provide progress reports to the Representative and Ombudsperson in April and October 2010.

Opportunity for Improvement #3 – Accessibility

MCFD actively engages youth and solicits their feedback on how to increase the effectiveness of the complaint process in order to raise awareness and promote understanding and engagement of youth.

Details:

- Consult with ministry partners, such as Urban Native Youth Association and Federation of BC Youth in Care Networks, to develop a plan for consulting with youth – especially those who are difficult to serve – for their input on how to improve awareness and accessibility of the process by April 1, 2010.
- Based on consultations with young people, develop and implement approaches for reaching out to children and youth and promoting awareness and understanding of the process by October 1, 2010.
- Evaluate the effectiveness of ministry activities to improve awareness and accessibility of the process by youth by October 1, 2011.
- Develop and implement a process to regularly solicit views of youth.
- Amend the Youth Agreement template form to include a provision spelling out the complaint resolution process with a signature box to indicate it was explained to and discussed with the youth.
- Report publicly on progress to increase youth awareness and accessibility by October 1, 2010.

Opportunity for Improvement #4 – Consistency

MCFD simplifies its complaint resolution processes by examining its multiple complaint policies, processes and practices to be consistent across regions and programs. Policies should be the same or the variances justifiable by the nature of the program.

Details:

- MCFD develops and implements a consistent approach to administering all complaints by service recipients regardless of whether the service is regionally or provincially delivered by October 1, 2010.
- Terminology, staff involvement and practices should be consistent with any variances clearly justifiable by the nature of the program.
- Report publicly on progress made by October 1, 2010.

Opportunity for Improvement #5 – Province-wide Complaint Tracking System

MCFD remains committed to implementing a province-wide complaint tracking system.

Details:

- Until the system is fully operational, track and publicly report on complaint resolution data from the regions including lessons learned.
- Develop a province-wide tracking and reporting system to collect data on complaint activity for MCFD's regional and provincially delivered services and programs.
- The province-wide complaint tracking system should produce regular operational reports on complaint activities. Measures should build upon those identified in MCFD's 2007 internal review of their complaint resolution process and the interim provincial reporting work that is currently underway. Measures for consideration include:
 - ◆ number of complaints
 - ◆ nature of complaints
 - ◆ who is making a complaint and whether they are a child or youth
 - ◆ whether the complainant is Aboriginal
 - ◆ whether cultural supports/approaches were considered
 - ◆ status
 - ◆ outcomes
 - ◆ whether timelines were met
 - ◆ complainant's satisfaction with the complaint resolution process, and
 - ◆ if there is a child or youth involved:
 - whether they were made aware that supports are available
 - how their maturity was assessed
 - whether their views were solicited and how.

Opportunity for Improvement #6 – Quality Assurance

MCFD establishes a comprehensive quality assurance regime for complaints in order to improve the complaint resolution process and ministry services.

Details:

- Develop and implement a process to compare, analyze and evaluate complaint data by June 1, 2010. The process should identify areas of improvement for policy, practice and training as well as systemic and recurring issues that need to be addressed to improve overall service delivery.
- Quality assurance activities should include a process of regular, random audits of regional processes to assess adherence to established policy and processes.
- Prepare 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.

Opportunity for Improvement #7 – Accountability

MCFD to undertake a comprehensive review and audit of delegated Aboriginal Agencies' compliance with standards established for complaint resolution.

Details:

- Develop an audit plan for the review of delegated Aboriginal Agencies' compliance with complaint resolution standards by October 1, 2010.
- Complete the audit and review of delegated Aboriginal Agencies complaint resolution processes by October 1, 2011.
- Report publicly on the findings and results of its review and audit.
- Work with delegated Aboriginal Agencies to revise the AOPSI standards to reflect the original 30-day timeline by April 2010.
- Review and revise delegation agreements, policies, and standards as required to ensure responsive and effective complaint processes are implemented in Aboriginal Agencies consistent with the principles of a child-centred complaint resolution process as identified in this report.

The Ombudsperson and the Representative believe the observations and improvements recommended in this review will provide MCFD with tools to further strengthen its regional complaint resolution process and build a more responsive and effective child-centred process.

As well, other child and youth-serving organizations may find the best-practice framework for a child-centred complaint resolution process useful in establishing their own processes.

The Importance of Hearing the Voices of Children and Youth

Children and youth are among the most vulnerable members of society. Those under 18 cannot vote and, except in specific circumstances, have no independent legal standing. Government has no obligation to consult with young people in establishing laws or policies that impact them.

There is some provision in provincial family relations and child protection legislation to be heard, and it is an obligation under the *United Nations Convention on the Rights of the Child* to solicit the views of children and youth in decisions affecting them. However, there is little real public accountability to demonstrate how, if or when government considers the views of young people.

Young people count. They need to know that what happens to children and youth in B.C. matters, and that their views are important.

Research shows that involving youth in decisions:

- improves their development
- promotes their participation in society
- improves services
- enhances protection for vulnerable children and youth.

“I never knew about the process, and I’d like to be educated about it more, so in the present and future I know how to resolve a situation properly without my rights being violated.”

– Former Youth in Care

When young people are engaged they learn to express themselves, gain a sense of control, learn social responsibility and socio-political awareness. They become participating, contributing and active citizens.

Adolescent health and psychological well-being improve, planning and communications skills are enhanced and problem behaviors reduced. Participation promotes a sense of belonging and the ability to have an impact. These outcomes all contribute to positive identity development.

Youth participation in decision-making must be “real.” If young people feel their voices are not truly heard and that “listening” to their views is just part of a process but not a real consideration in decision-making, the results could be more harmful than not engaging them at all.

At any given time in the past year nearly 16,000 children and youth in B.C. were in the care of the government, a relative or other individual or in another government regulated and funded program.

These vulnerable children and youth often face challenges in seeking to understand and participate in decisions regarding the services they require given their circumstances and the power of adults in their lives. They may:

- have experienced abuse, maltreatment and neglect at the hands of the 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

The Importance of Hearing the Voices of Children and Youth

- 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.

For most young people, a parent or guardian is their natural advocate. For children and youth in care, having government as their guardian but not their day-to-day caregiver limits a child's ability to have their views heard.

"I have been in care for 12 years and have never heard of a complaint process.

– Former Youth in Care

Generally, parents make choices and decisions for their children based on their intimate understanding of the child gained through daily and long-term interactions. The depth of understanding that exists between parent and child is not the same when government is parent.

The rights of children in care "to be consulted and express their views, according to their abilities, about significant decisions affecting them" and "to be informed of their rights and the procedures available for enforcing their rights" are enshrined in legislation.

This places significant responsibility on government to adopt strategies and measures to ensure that the rights of a child in care are protected and upheld. It is critical that government have and adhere to policies, standards and practices requiring that the views of children or youth in care be fully considered and taken into account in making decisions about them.

MCFD and Delegated Aboriginal Agencies' Complaint Resolution Processes

MCFD Process

MCFD has five geographic regions with responsibility for delivering child protection, family development, and residential and foster care services. It also administers early childhood development programs, child care, services to children and youth with special needs, child and youth mental health services and specialized provincial services such as youth custody, youth forensic psychiatric services and services for the hearing impaired.

MCFD's regional complaint resolution process is governed by the *Child, Family and Community Service Act (CFCSA)* and its regulations. The complaint resolution process must also adhere to the principles, best interests of the child and rights of children in care as stated in the *CFCSA*.

"We know we are not getting information [to young people] and are struggling with how to get the information out there."

– MCFD Regional Staff

Each of the ministry's five regions is required to have a complaint resolution process that sets out how provincial policy is implemented in that region. Regional resolution consultants provide general oversight and support to the regional process.

Complaint resolution should begin informally between the complainant and their social worker.

If the issue is not resolved informally, or the complainant does not want to engage in the informal process, the complaint may proceed to the regional resolution process.

While each region's process may vary in detail, there are two steps in the complaint resolution process:

1. local review by a team leader
2. formal review

The first step involves the complainant and MCFD team leader reviewing the concern. Complainants are encouraged to try to resolve their issues at this level before proceeding to the formal resolution process.

In the second step, a complainant who is not satisfied a concern has been addressed can request the matter be reviewed by someone with authority to overturn a decision that was made. If a ministry client feels the ministry's response to their concern is unfair they have the option of requesting an external review by the Ombudsperson's office.

Timelines

Complaint resolution must be sensitive to a child's sense of time. The goal is to complete each step in the process within 30 days.

"It should be mandatory that social worker(s) tell kids about the complaints process."

– Former Youth in Care

Monitoring and Reporting of Complaint Activity

Each region maintains its own system to record, track and monitor complaints but there is no single means of ensuring information is consistent.

Delegated Aboriginal Agencies' Approach

Delegated Aboriginal Agencies are required, under their Delegation Enabling Agreement with the Province, to develop a complaint resolution policy and process that adheres to the standards outlined in the Aboriginal Operational and Practice Standards and Indicators (AOPSI, revised July 2009).

AOPSI Standard 16 "Client Complaint Process and Conflict Resolution" sets the overall policy that each delegated Aboriginal Agency must adhere to when establishing a process to address complaints related to service provision. Each Agency is responsible for establishing its own detailed process which will be reviewed annually.

The process must be child-centred, fair, open, accountable, accessible, timely, safe, provide for advocacy and support, and be responsive to each community. Delegated Agencies are also required to record, track and report out on the process within defined timelines and expectations. The standard also incorporates minimum requirements consistent with the provincial policy such as a call back within two business days, that a complaint must be reviewed within 30 days and that the outcome of the review will be provided within 60 days.

Case Examples

Advocacy Case Example: Non Child-Centred

When a 13-year-old youth came into care, the youth disagreed with a component of his plan of care. He did not understand why a certain term was included in the plan of care and felt his views weren't being considered.

The youth contacted the Office of the Representative for Children and Youth and spoke to an advocate who brought the youth's concerns to the attention of his social worker and team leader.

Ministry staff reassessed the situation and decided to maintain the term in question. Upset with this, the youth asked the advocate to initiate a formal complaint on his behalf. The advocate was told the complaint would go directly to step two of the formal regional complaint resolution process with the final decision being made by the community services manager.

The advocate questioned this since the community service manager had been involved in the earlier decision. Still, the community service manager reviewed the decision. Neither the youth nor the advocate were consulted.

The advocate had asked to be kept informed of the outcome of the review. However, during a phone call with the youth, the advocate learned the youth had received a letter stating the original decision was upheld and could be reassessed in three months. The ministry did not phone or visit the youth to ensure he understood the decision.

The advocate asked about the possibility of an administrative review, was informed that it was a different process than the complaint process, and was told the request should go to the Director of Integrated Practice. When the request was made, there was confusion about what an administrative review was and how it relates to the complaint process. It was determined that the complaint resolution process and administrative review were distinct and the Director did have the authority to conduct an administrative review. The term in the plan of care remained.

When the advocate followed up with the youth a few months later, the youth said he still did not understand why the term was included in the plan and that none of his social workers had discussed this with him.

Throughout this case, the youth had four different social workers over a period of seven months. The latter two were unaware of the youth's concerns. The advocate then raised the youth's views with the social worker, team leader and community service manager and asked whether the ministry was willing to reconsider its decision. The Director responded to the advocate that the original decision remained but would be revisited every three months.

At a meeting with the social worker to go over the decision and the supporting reasons, the youth was told the decision would be reviewed with him every three months and if this did not occur, or if he felt that his views were not being considered, he could contact his advocate again for assistance.

Child-Centred Elements That Require Improvement	
Child voice	The youth was not able to express his views to his social worker and subsequent social workers did not seek his perspective.
Meaningful child participation	The youth had limited opportunity to participate in the decision-making process. There were limited face-to-face meetings between the youth and those involved in assessing his complaint.
Child friendly process	The decision made during the formal complaint resolution process was conveyed to the youth by a letter. There was no follow-up conversation with the youth to determine if he understood the decision. From a youth's perspective, the process becomes less meaningful when the willingness to reassess the situation is not followed up by the social worker.
Accessibility	There was confusion regarding the role of an administrative review. MCFD staff said an administrative review process was separate and distinct from the complaint resolution process and advocacy staff requested an administrative review in hopes of achieving an objective decision. There is no separate administrative review process. The term is used in the statute and regulations and identifies the legislative authority under which MCFD conducts its complaint resolution process.
Administrative fairness	The community service manager who made the final decision during the formal complaint resolution process reviewed her own decision made during the informal process.

Advocacy Case Example: Child-Centred

Barbara, a 15-year-old Aboriginal youth, returned to live with her biological mother after her ministry adoption placement broke down. She initiated the complaint resolution process with the ministry in order to address the following issues:

- continuation of respite care for mental health issues
- funding barriers in accessing health services
- clarity regarding her Aboriginal status under the *Indian Act*
- an explanation and apology for how she was interviewed in relation to her adoption placement breakdown.

Barbara sought the assistance of the Office of the Representative for Children and Youth to support her in the complaint process. An advocate from the Office was welcomed into the complaint resolution process at the dispute resolution meeting. During the meeting Barbara was supported by the RCY advocate to explain her views and concerns. The advocate used youth-friendly language and checked in with Barbara to ensure she understood what was being discussed.

Barbara felt her voice had been heard and her concerns were considered and addressed. She was satisfied with the complaint resolution process as well as the outcome, which included an apology from MCFD regarding its conduct in the investigation regarding the adoption placement breakdown, the continuation of respite services, the application of Jordan's Principle to have the youth's health needs met, and clarity of her status.

Child-Centred Elements Demonstrated in the Complaint Resolution Process

Child voice	The youth was able to express her views. MCFD staff considered and responded directly to those views.
Meaningful child participation	The youth was able to participate in a meeting where the youth's concerns were addressed.
Child friendly process	A youth-friendly environment was established for hearing the complaint and for ensuring that the youth understood the decisions that were made and the reasons why.
Accessibility	The youth was able to request and receive advocacy support throughout the process.
Timeliness	The complaint resolution process occurred in a timely fashion.

Promising Practices

Two initiatives outside the regional complaint process that are examples of how communities and organizations can work more closely with children and youth are described here:

Promising Practice: MCFD Fraser Region's Youth Transition Conferencing Initiative

Youth transition conferencing is a collaborative process (based on the family group conferencing model) that engages youth in care in decision making in the years before their 19th birthday.

The youth decides if a conference is right for them, who they would like to attend, what the youth identifies as his or her skills, abilities, talents and gifts, and on what goals the youth would like to work. The identified support group is encouraged to think in terms of the youth's strengths and how they, as support group members, can actively support youth-stated goals. The overarching goal of youth transition conferencing is to foster, establish or re-establish long-term connections and relationships so the youth has active support while making the often difficult transition from government care to independent adult life.

Youth who have engaged in this process have said that they felt listened to, encouraged, supported in concrete ways, and that they have a sense of control in their lives. Their supporters also commended the process.

The youth transition conferencing pilot was conducted in selected communities in the Fraser Region from September 2006 to the present. Additional resources are being dedicated to expand use of the process across the whole Fraser Region. There has been keen interest in implementing youth transition conferencing around the province and the initiation of the process is under development in some areas. The eventual goal is to embed youth transition conferencing into the ministry's collaborative practices in all areas of the province.

Promising Practice: Ministry of Attorney General The International Institute for Child Rights and Development's *Hear the Child* Pilot Project in Kelowna

The "*Hear the Child*" pilot project originated from the Meaningful Child Participation in B.C. Family Court Processes initiative on hearing and considering young people's voices in B.C.'s court system, as required when appropriate, under the *Family Relations Act*.

"*Hear the Child*" established a roster of independent professionals trained to interview children, record their views and report those views to the court. The pilot project developed recommendations for improving the meaningful participation of young people, which included:

- changes in attitudes and approaches to equip adults in the family justice system to support young people and their participation
- improved supports to young people directly
- systemic improvements to support young people and their participation.

Conclusion

A system that is based on consideration of the child's best interests and ensures that a child or youth is heard and their views considered leads to better planning and decision making for individual children and youth.

Timely and meaningful participation of a young person can contribute to resolving a complaint effectively, and build young people's resilience and competencies. Children can gain the ability to challenge abusive behaviour and protect themselves by having appropriate standards of care modeled by their caregivers and guardians.

"The complaint process should be known by all youth in care... we are afraid that the next generation will go through the same thing."

– Former Youth in Care

How we respond to concerns and complaints is an important aspect of continuously improving service quality and supporting organizational 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 organization and the child and youth it serves.

This analysis of ways to improve complaint resolution processes to make them more child-centred focused on the MCFD regional complaint resolution processes most used by children and youth receiving MCFD services. Major themes to emerge from the review include timeliness and objectivity concerns, awareness and accessibility issues by youth, and the need to strengthen recording and monitoring for continuous learning purposes.

Other public systems serving children and youth could benefit from regularly considering the state of their complaint resolution processes for young people. Certainly, the other main public systems supporting children in B.C. – the education, health care, policing and justice systems – might welcome opportunities to reconsider their policies and practices and make them more child-centred.

Children and youth have a right to voice complaints about services and the care they are receiving. They deserve a complaint resolution process that hears the voice of children, demonstrates commitment to young people, contributes to better individual outcomes and improves services overall for children, youth and their families.

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Contact Information

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