SOCIAL SERVICES INSPECTORATE PRACTICE GUIDELINES ON:

CHILDREN'S COMPLAINTS WORK

Background

The Social Services Inspectorate, in the course of carrying out inspections of children's residential centres, has received numerous requests to provide a practical set of guidelines on complaints procedures. These guidelines are not intended to be definitive, but are issued to assist health boards, and other providers of children's residential services, in their task of developing and operating effective complaints systems. They have been informed by evidence indicating what works, from existing good practice guides, research findings, inquiry reports and views from children, parents and professional staff.

What is a complaint?

As a suggested definition, a complaint is ***any expression of dissatisfaction*** about the quality, lack of, or refusal, of a service that the person complaining is entitled to use.

Who is entitled to complain?

All children receiving, or entitled, to a service (or others acting on their behalf) should be expressly provided with a right to complain.

Why have a complaints system?

A complaints system has a number of purposes, the primary one being to give meaningful expression to children's rights. This purpose only becomes effective if children know about their rights, are free to exercise them and the system is capable of giving their complaints a fair and impartial consideration. The main object of a good complaints system is to find ways of resolving children's sense of being treated unfairly.

Complaints sytems provide one of the most reliable ways of finding out how well services are received. They show that health boards, and other providers of children's residential services, are listening to children, are open to learning from mistakes and are committed to improving the quality of the service.

An effective complaints system gives clear guidance to staff on how to deal with children's complaints, making them more confident in their work practices. Good complaints systems are synonymous with professional ethics and codes of practice and can only enhance the status of child care workers and managers.

Effective complaints systems contribute towards keeping children in care safe, by giving them an active voice, and the ability to challenge decisions and actions with which they are dissatisfied. Recommendation 12.19 of the *Report on the Inquiry into the Operation of Madonna House (May 1996)* emphasises the significant role of complaints procedures in this regard.

It is fundamental to good public administration for public services, including health boards, to have clear and well-publicised complaints procedures. A health board which does have fair and effective arrangements for hearing complaints, from users of its services, will be less open to a finding of maladministration.

What do people who complain want?

In recent research findings and surveys people who have complained indicate that four things would resolve complaints satisfactorily.

- **For their complaint to be taken seriously**
- **An explanation of what went wrong**
- **An apology or expression of regret for what has happened to them**
- **Reassurance that there will be no repeat**

In contrast, some of the reasons for their continued dissatisfaction are;

i) The failure of service providers to act when a complaint is upheld.
ii) The onus on them to "prove" their complaint.
iii) The lack of apologies from professionals or organisations.
iv) The apparent failure of service providers to learn from complaints.

"The very last thing that any service user should ever have to complain about is the complaints procedure itself"[1].

Guidelines for setting up and operating a complaints system

From the very outset, avoiding confusion is of paramount importance. To this end, **child protection issues are dealt with under Children First Guidelines**[2] and **staff conduct issues through staff disciplinary procedures**. Complaints are about other things and whilst the three procedures could be going on simultaneously they are distinct and should not be confused.

These guidelines, for a fair and effective complaints system, are based upon key principles, each of which has been emboldened.

1) Complaints systems for children should be developed in full **consultation with all interested parties** and integrated within any existing arrangements for handling complaints.

[1] **Lindsay, M (2001), Social Services Inspectorate, Dublin**
[2] **Children First: National Guidelines for the Welfare and Protection of Children (1999), Department of Health and Children, Dublin**

2) **A service approach**

The service approach to resolving complaints is generally regarded as the most user-friendly, non-adversarial and positive response. Effectively, if a person feels that they have a complaint against a service then, regardless of whatever others may think to the contrary, they have. There is no proof required. People, including children, generally know if they are dissatisfied with a service. The central issue for the organisation is what it chooses to do about that fact. Health boards, and other providers of children's residential services, are encouraged to approach the handling of **complaints as a positive service to children**, in the exercise of their rights. This approach relies upon health boards, and other providers of children's residential services, treating all complaints as having been made against the service, not against any individual. This helps to de-personalise complaints and encourage the organisation, as a whole, to accept responsibility for trying to resolve them.

Ordinarily, complaints are best resolved **close to the point of service delivery**. 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. Complaints systems should recognise that *"... a formal procedure is not the most appealing way for children to air grievances" (Utting, 1997)*[3]. In constructing procedures health boards, and other providers of children's residential services, should not assume that carrying out an investigation is the only method of handling complaints. Generally, best practice in children's complaints work guides more towards **developing proactive, 'problem-solving' approaches**. Often, a constructive, conciliatory, 'problem-solving' process will help resolve children's dissatisfaction, before they become 'complaints'.

Evidence from practice and research indicates that children, parents and staff prefer this approach to dealing with complaints. It can also be an effective method of resolving complaints, both in terms of achieving good outcomes and preserving client-staff relationships.

3) **Formal complaints procedure**

A complaints system also needs to provide a **formal procedure for investigation**. This procedure should be available at any stage of the process if requested by the child making the complaint, and as a 'safety net' for complaints that cannot be resolved by the service approach. For a complaints procedure to provide an adequate safeguard, children must have the facility to **notify complaints to someone located outside of the centre**. Complaints requiring investigation should, in the interests of natural justice, **include an independent element** in their consideration to avoid health boards, and other providers of children's residential services, appearing to act as judges in their own cause.

Investigations that are carried out under the formal complaints procedure need to be handled with great care as these *'... can be stressful for children and staff alike,*

[3] **Utting, Sir William "People Like Us", (1997) HMSO, UK**

affecting individuals acutely and having an impact upon the (centre) as a whole[4]. The investigation process should ordinarily involve the following steps;

i) Initially, confirm the incident leading to complaint and decide if there are sufficient grounds for an investigation *(Is there prima facie evidence that the incident complained about happened or are the facts disputed?).* If you decide not to investigate set out your reasons in writing.
ii) Confirm that the complaint still stands.
iii) Decide who should be notified that you are about to investigate the complaint *(the child, parents, social worker, advocate etc).*
iv) Plan how the investigation will be carried out *(Who will do it? How long will they need? Who will they need to interview? What records will they need to access? etc.).*
v) Carry out the investigation.
vi) Consider the findings and any implications, including how these will be acted upon, and inform all interested parties, in writing, of the outcome.
vii) Advise child of their right to appeal your decision, if still dissatisfied.

Health boards, and other providers of children's residential services, are advised to **adopt one single, clear complaints procedure**. Potentially, there are many different types of investigation which can arise from a serious complaint or allegation having been made. Often, this can result in the role of a complaints procedure becoming confused between handling complaints, disciplinary matters, child protection concerns and allegations which should be referred to the Gardai for criminal investigation. The consequences for both child and staff can be that they are left with little information about the progress of complaints. Ironically, both may share feelings of disempowerment and distrust about the whole complaints process, which in consequence is brought into serious disrepute. For this reason health boards, and other providers of children's residential services, should aim to **avoid any confusion with other procedures** (e.g. disciplinary, child protection, criminal investigations). Any of these, at various times, may have a significant function, but should not be an integral part of a complaints procedure. For the purpose of clarity, it is better to have separate, distinctive procedures for dealing with disciplinary matters, child protection concerns, any allegations of criminal wrong-doing or for hearing staff grievances. The complaints procedure can then be guided to cross-reference, as appropriate, to these other procedures whenever a different consideration or investigation is indicated. In the interests of transparency, health boards, and other providers of children's residential services, should issue their own **guidelines as to what types of complaint are likely to be dealt with outside the scope of the complaints system**.

4) **Appeals process**

The formal complaints procedure needs to confer **a right of appeal or to seek an independent review** of the complaint. This is because no procedure is guaranteed to always get it right and people are entitled to a second opinion.

[4] **Support Force for Children's Residential Care, (1997) HMSO, UK**

Health boards, and other providers of children's residential services, will need to put in place a process for hearing appeals against the outcome of complaints. This process will need to demonstrate fairness, by ensuring that the people involved in hearing appeals have not previously investigated, or made any determination about, the complaint.

5) Complaints systems should be open, with sufficient information provided to children so as they are able to fully benefit from these. This information should state what rights children can reasonably expect whilst in care. Recommendation 12.2 of the *Report on the Inquiry into the Operation of Madonna House (May 1996)* indicates the requirement to have such a statement, and some of the rights that this ought to include. Arrangements for making complaints must be **well publicised, accessible and easy to use**.

6) Arrangements for handling complaints should be transparent, **set within clear and reasonable time limits** for action. These ought to be defined in advance and be capable of being understood by any person wishing to make a complaint.

7) Children need support, from the outset, if they are to fully benefit from a complaints system. Primarily, children need **access to services of advocacy**, which health boards, and other providers of children's residential services, will need to develop or commission. This may be facilitated by each health board appointing a Children's Rights Officer, in line with Recommendation 12.22 of the *Report on the Inquiry into the Operation of Madonna House (May 1996)*. Consideration needs to be given, by those who design a complaints system, as to how the views of children who experience intellectual disability, sensory impairment or have special learning needs would be heard and have their rights asserted. For children experiencing language and communication difficulties specialist help is likely to be required to ensure that they have equal access to any complaints system.

8) Children can be helped to know of the existence of a complaints system, by care staff and social workers advising them. Materials can be prepared and distributed, which explain that there is a complaints system, what it is for and how children are able to use it. These can be in the form of a leaflet, audio tape or on video. In preparing these, health boards, and other providers of children's residential services, will want to give some consideration to appropriateness of language and media, as this may vary according to the different ages, needs and backgrounds of children. Care is needed to avoid children being excluded from receiving information about complaints. In some examples of good practice children have been provided with pre-paid contact cards, which is a user-friendly method of enabling them to use a complaints system.

9) As a general principle, health boards, and other providers of children's residential services, should respect the **rights of children and staff to confidentiality**. The integrity of the complaints system and principles of natural justice require that any information, which is provided for the purpose of resolving a complaint, should only be used for that purpose. Exceptions to this should be rare, but must include protecting children and the prevention of any perverting or obstructing the course of justice.

10) Complaint systems should be supported by **regular monitoring to assure effectiveness** and assist management in evaluating the quality of service provided. Training on complaints handling needs to be developed and provided to staff and managers.

11) **Complaints need to be recorded** and stored in a manner which facilitates access. These records should include details of the complaint made, action taken to resolve it (including named individuals responding to it and timescales for completing set tasks), and whether the complainant indicates that they are satisfied with the outcome. Records of complaints should be kept in order to inform practice development, monitoring and inspection. Health boards, and other providers of children's residential services, will want to consider whether **complaints should be "notified" as significant events**[5].

12) **A complaints system is not a substitute for good practice**. In addition to good primary care, by way of example, children in care also need;

    a. Knowledge about who they are, their family history and circumstances of being in care.
    b. Respect for their cultural, ethnic and religious background.
    c. Involvement in decisions affecting their lives.
    d. An understanding of how they will be supported in maintaining contact with their family.
    e. Access to appropriate education and opportunities to develop to their fullest potential.
    f. An understanding of the help and support they are entitled to when they leave care.
    g. Access to written information kept about them.
    h. Privacy and protection from all forms of harm.
    i. Appropriate time and support in which to address emotional problems.
    j. To be treated fairly and given a system of redress if not.
    k. To be cared for without discrimination, including that which occurs from their status of being in care.
    l. To be given care commensurate with their individual needs.

    Recognition of these rights can go a considerable way to reducing the need for children to have to complain about the quality of service they receive.

[5] **Under Article 15 of the Child Care Regulations, 1995 and Article 16 of the Child Care (Standards in Children's Residential Centres) Regulations, 1996.**