A Guide to Complaint Handling
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As Ombudsman for Children I would like to share with you our complaints handling experience as an Office dealing directly with children and young people under the age of 18.

As a new organisation we hope this booklet offers public bodies within the Ombudsman for Children’s Office (OCO) jurisdiction an understanding of how we do our business.

The information in this booklet is based on a participative piece of research. We looked to our colleagues across Europe and beyond who have well-established complaints procedures for children and young people. We asked them about their experience and we also asked children and young people directly what they thought. Following this consultation we came up with ten guiding principles that inform our complaints procedures.

In exercising our complaints and investigation function, the key criterion for any intervention is that a child has, or may have been negatively affected by the action of a public body. My Office is neither advocate for the child nor adversary to the public body in this context. We are obliged to have regard for the best interests of children when we carry out an investigation and if appropriate, always find out the views of the children or young people involved.

My job, and statutory responsibility, is to promote the rights and welfare of all children up to the age of eighteen and to ensure that in policy, practice and law their best interests are paramount.

1. Foreword by the Ombudsman for Children
The experience of our team includes: child health, education, human rights law, social policy, social work and psychotherapy. Our combined experience and participative work with children reminds us that like all of those working with children, we are learning every day.

We have met many professionals who have dedicated their careers to improving the lives of children. We have direct experience of professionals working as advocates for children. This guide is the first in a series we intend to publish to offer support to professionals who may have to respond to a complaint regarding a service for children and young people.

If you have any ideas or experience you would like to share with us to improve our information please visit us at www.oco.ie or contact us at oco@oco.ie

Emily Logan
Ombudsman for Children
2. The OCO’s Mandate and Role as an Independent Complaint Handling Body

The Ombudsman for Children’s Office (‘OCO’) was established in 2004 following the appointment of Emily Logan as Ireland’s first Ombudsman for Children. Provided for under primary legislation, the OCO is an independent statutory body whose mandate is to promote the rights and welfare of children and young people under eighteen years of age in Ireland.

The Ombudsman for Children reports to the Oireachtas in relation to the exercise of her core functions. Set out in the Ombudsman for Children Act, 2002 (‘2002 Act’), these functions are:

1. To receive, examine and investigate complaints made by or on behalf of children and young people.

2. To undertake research regarding children’s rights and welfare and to provide independent advice on legislative and public policy developments affecting children and young people.

3. To promote children’s rights and welfare by providing an independent voice on behalf of all children and young people in Ireland and affording children and young people opportunities to be heard in relation to issues that affect and concern them.
The 2002 Act sets out the defining characteristics of the OCO’s complaint handling mandate and role as follows:

- The OCO manages and operates an independent and impartial complaint handling procedure. In handling complaints, the OCO is neither an advocate for any child nor an adversary of any body complained against.

- The OCO provides a free complaint service.

- Complaints can be made to the OCO by children and young people as well as on their behalf by parents or suitable third parties.

- Complaints can be made in respect of actions on the part of public bodies, schools and all hospitals where children are cared for.

- In handling complaints, the OCO recognises and respects local complaint procedures.

- The Ombudsman for Children is empowered to exercise discretion in respect of the OCO’s procedure for handling complaints, within the parameters of the 2002 Act.
• In the context of examining a complaint, the OCO aims to support parties to the complaint to arrive at a mutual understanding of the complaint and to resolve the complaint informally.

• When investigating a complaint, the OCO seeks to resolve the complaint based on its informed understanding of the complaint. In conclusion to an investigation, the Ombudsman for Children will issue an investigation statement and a set of recommendations as appropriate.

• The Ombudsman for Children’s Office will only publish a statement if it believes that there is learning which may impact on bodies other than the one investigated. Both the complainant and the body under investigation would be fully informed of this decision in advance of the publication of the statement.
3. The Principles Guiding the OCO’s Complaints Function

The OCO’s complaint handling procedure is underpinned by the Ombudsman for Children Act, 2002 and ten complementary guiding principles. These principles and the OCO’s corresponding commitments in relation to complaint handling practice are outlined below.

<table>
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<tr>
<th>Guiding Principles</th>
<th>Complaint Handling Practice</th>
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| Best interests of children | - The OCO’s complaint service and procedure reflect the OCO’s commitment to:  
- doing its best for children and young people;  
- doing no harm to children and young people;  
- the safety and well-being of children and young people. |
| Independence | - The OCO provides an independent complaint service and operates a complaint procedure that upholds the OCO’s role as an independent, national human rights institution. |
Impartiality

- The OCO provides an impartial complaint service.

- The OCO operates a complaint procedure that:
  - respects local complaint procedures;
  - is neither an advocate for any child nor an adversary of any body complained against;
  - reflects the OCO’s commitment to strive to do the right thing in a fair and just manner.

Integrity

- The OCO’s decisions and actions respect:
  - the provisions and parameters of the Ombudsman for Children Act, 2002;
  - the OCO’s core values and corresponding commitment to good complaint handling practice.

Consistency and flexibility

- The OCO aims to operate a complaint service and procedure that balances the need for consistency and flexibility appropriately.

Proportionality

- The OCO is proportionate in its approach to handling complaints. The process applied, the resources allocated and the form of redress considered in respect of each complaint is proportional to the complaint and consistent with the provisions of the 2002 Act.
Transparency

- The OCO manages and operates an open and transparent complaint service and procedure. Acting in accordance with good complaint handling practice and within the parameters of the Ombudsman for Children Act, 2002, the OCO is committed to:
  - developing and providing clear, accurate, accessible information in relation to its complaint handling role;
  - clarifying to complainants and bodies complained against how they can cooperate with the OCO during the complaint process;
  - approaching transparency in a manner that upholds confidentiality requirements by clarifying any limits on and corresponding guarantees that can be made in respect of confidentiality.

Accessibility and inclusion

- The OCO provides a free complaint service.

- The OCO is committed to developing and providing an approachable and accessible complaint service, including the provision that complaints can be made by and on behalf of children and young people.
• The OCO aims to develop a complaint process and associated practices that, in so far as permissible and practicable, mitigate potential barriers to bringing a complaint.

Participation

• In dealing with any admissible complaint, the OCO provides for and supports the participation of parties to the complaint in the process, in so far as permissible, necessary, appropriate and practicable.

Professional and results-focused

• The OCO is committed to high standards of administration. The OCO handles complaints in a rigorous and proportionate manner and operates a complaint procedure that is timely and efficient.

• The OCO treats people who contact the OCO with a complaint and all parties to any admissible complaint with courtesy, respect and sensitivity.

• The OCO is action-oriented and results-focused. The OCO strives to provide quality outcomes for the complainant and the body complained against and to maximise the positive impact of its work appropriately.
4. Providing for Children’s and Young People’s Participation

Section 6(2) of the Ombudsman for Children Act, 2002 provides that the Ombudsman for Children will give due consideration to the wishes of a child in the performance of her function to examine and investigate complaints, in so far as is practicable and in accordance with the age and understanding of the child. Correspondingly, the OCO does not use age as the sole criterion for determining whether or not to facilitate participation by a child or young person in the OCO’s preliminary examination or investigation of a complaint affecting him/her. When deciding whether to involve a child or young person directly, the OCO employs the following decision-making criteria:

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<tr>
<th>Criteria</th>
<th>Considerations</th>
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<tr>
<td>Best interests of the child</td>
<td>• Is the child’s or young person’s prospective involvement consistent with his/her best interests?</td>
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<td></td>
<td>• Is the OCO sufficiently confident that the child’s or young person’s involvement is unlikely to distress, disturb, harm or have an otherwise adverse effect on him/her?</td>
</tr>
<tr>
<td>Capacity of the child</td>
<td>• Does the child or young person have the requisite capacity (understanding) to be involved directly in the process?</td>
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Wishes of the child

- Does the child or young person wish to be involved directly, in accordance with parameters for involvement explained to him/her by the OCO?

Necessity

- Is the child’s or young person’s involvement a procedural or investigative necessity? For example, will it facilitate the OCO’s understanding of the complaint and/or of how the child or young person may have been negatively affected by the action or inaction complained against?

Feasibility

- Can the OCO provide the supports required to facilitate the child’s or young person’s effective involvement in the process?

For the purposes of decision-making in this regard, the OCO may, in accordance with the discretion afforded to it by the Ombudsman for Children Act, 2002, seek the views of a child’s or a young person’s parent or, in the case of children and young people in care, of an appropriate professional who is familiar with the child’s or young person’s circumstances and capacities.
5. Giving Consideration to Children’s and Young People’s Views

In accordance with section 6(2) of the Ombudsman for Children Act, 2002, the OCO will give due consideration to the wishes of a child or a young person when these are expressed in the context of the OCO’s handling of complaint affecting him/her.

The OCO will determine the consideration (weight) due to a child’s or a young person’s wishes after these wishes have been expressed and having regard to the following factors:

• To what extent are the child’s or young person’s wishes consistent with his/her best interests?

• To what extent does the child or young person understand the implications of his/her wishes and the process within which these wishes are being expressed?

• Have the child’s or young person’s wishes been expressed freely, i.e. without influence having been exerted on him/her by any party?

• To what extent, if any, do the child’s or young person’s wishes impose obligations on others and what is the nature of any such obligations imposed?

• To what extent, if any, do the child’s or young person’s wishes interfere with the rights of others and what is the nature of any such interference?
6. Complaint-Handling Practice: A Case Study

The complaint
A mother made a complaint to the OCO that her local authority failed to provide adequate housing for her son who had been diagnosed with a progressive disabling disease. The mother refused a house offered by the local authority on foot of medical advice that the accommodation would not meet her son’s specific and changing needs. The Council contended that the house was developed for her son in consultation with his Occupational Therapist. Since 2000, the Council had refused to review the child’s case despite several medical representations outlining the deterioration in the boy’s condition.
The outcome
Following an involved and comprehensive investigation, the OCO found that there was no evidence that the house had been adapted for the boy’s specific needs and, therefore, did not constitute a reasonable offer and that no review of the case took place for a period of almost four years.

On this basis, the OCO made a number of recommendations including that the child’s case be reviewed to find a suitable housing solution for him; that the local authority administrative processes be reviewed; and that the local authority adopt a more integrated and responsive approach to children. The local authority recognised the findings and recommendations as fair and accurate and is currently working on implementing them. The report was published and disseminated in early 2007 as the OCO believes that the findings of this investigation can offer constructive learning for other local authorities and public bodies.
Further information about the OCO’s complaint handling role and service is available on the OCO’s website, www.oco.ie
To request an OCO information pack call 01 865 6800 or email oco@oco.ie

References

This booklet is one of the outcomes of a participative research on developing child-friendly complaint procedures for children and young people. Children and young people’s ombudsmen and commissioners across the world were contacted as part of this research to source information on best practises. Children and young people also directly participated in the research. Below are a few useful references.

Complaint Handling for Children and Young People

• Guidelines for dealing with Youth Complaints (2007), developed by the Ombudsman for New South Wales and available for downloading at www.nswombudsman.nsw.gov.au

Children’s and Young People’s Participation


**Children’s Ombudsmen and Commissioners (Europe)**

• European Network of Ombudspersons for Children, www.ombudsnet.org/enoc/

• British and Irish Network of Ombudsmen and Children’s Commissioners, www.binocc.org

• Northern Ireland Commissioner for Children and Young People, www.niccy.org

• Scottish Commissioner for Children and Young People, www.sccyp.org.uk

• Children’s Commissioner for Wales, www.childcom.org.uk
