

# Care Matters



## Supporting Children's Complaints

# Learning outcomes



By the end of today you should be able to:

1. Identify common reasons why children complain and what outcomes they want
2. Explain the Children Act Complaints process
3. Identify professionals who may be involved in the complaints process
4. Summarise other legal options for achieving change
5. Support children and young people to make a complaint.

# The complaint experience

- Our own experience of making a complaint or being complained can be an important guide to good practice
- Making a complaint is often a last resort and emotions of the complainant and those complained about can be strong.

# The complaint experience

- How and what we communicate particularly to the young person but also to the people about who the complaint is being made is critical
- Our awareness of ‘how it feels’ is important when we make decisions about how we manage the complaint and communicate with everyone involved.

# What is a Complaint?

- “A complaint may be generally defined as an expression of dissatisfaction or disquiet in relation to an individual child or young person, which requires a response. Children and young people often express complaints as ‘problems not being sorted out’”

*Getting the Best from Complaints 2.1.3*

# What is an Outcome?

- A resolution of the complaint or representation that solves the problem or meets the need that led to the complaint being made.



# Common Reasons for Complaints

- Relationship issues
- Communication issues
- Disagree with decisions made
- Dissatisfied with services/care
- Decisions or services not made or enacted
- Not consulted or listened to.

# Common Outcomes Wanted



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- To be heard
- Apology
- Putting things right
- Ensuring that same issue won't affect others
- Change in policy
- Compensation
- Preventing the decision being implemented

# Options to achieve change

- Negotiation
- Involving the Independent Reviewing Officer (IRO)
- Safeguarding referral
- Complaints
- Local procedures
- Children Act 1989
- Other
- Local Government Ombudsman
- Legal action
- Children Act
- Judicial review/Human Rights
- Child abuse negligence claim
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# Right to Complain

- Children have a legal right under the Children Act to make complaints about children's services (section 26 & 26A)
- Children have a legal right to an advocate's help when making a complaint under the Children Act
- A complaint can be made up to 12 months from an event or later at the discretion of the Local Authority.

# Informal options

- Negotiation
- Contact the IRO
- LA must inform the IRO where there is a significant change to the care plan
- LA must hold a review before a move
- IRO can challenge by using
  - Internal dispute resolution system
  - Informing child about legal advice
  - Referral to CAFCASS (very unlikely).

# Children Act Complaints Stages



- Local resolution (Stage 1)
- Law states that complaint must start at stage 1
- Must be completed within 10 working days. Can be extended for further 10 days where LA consider the complaint is complex
  
- Formal investigation (stage 2)
- Appointment of Investigating Officer and Independent Person
- Must be completed within 25 working days. Can be extended to a total of 65 working days if unable to complete in time
- Can only start at Stage 2 with the agreement of

# Local Government Ombudsman



- Where there has been maladministration leading to injustice to the complainant
- Internal complaints procedure must first have been used
- Can be used in the following circumstances
- At the end of the Children Act procedure where not satisfied with outcome of complaint
- As an alternative to the Panel stage of the Children Act complaints procedure
- Where there are procedural irregularities within the Children Act complaints procedure e.g long delay in formal investigation
- May be an alternative to judicial review

# Emergency Action

- Children Act complaint
- Ask Complaints Manager for decision to be frozen pending the resolution of the complaint.
- ‘Decisions are made on a case by case basis but there should be a presumption in favour unless there is a good reason against it for example where the child would otherwise be at risk’ Para 6.5, Getting the best from complaints
- Judicial review and human rights
- Injunction to stop action complained of until the court can consider the case or matter can be settled.

# How to obtain compensation



- Through the following routes:
- Children Act complaint
- Local Government Ombudsman complaint
- Legal action
- Human Rights Act
- Negligence
- How much?
- No set formula
- Varies depending on which route taken - usually greater through the courts
- For further information:
- Local Government Ombudsman - Guidance on Good Practice 6
- “Child Abuse Compensation Claims” by Malcolm Johnson, Jordans 2011