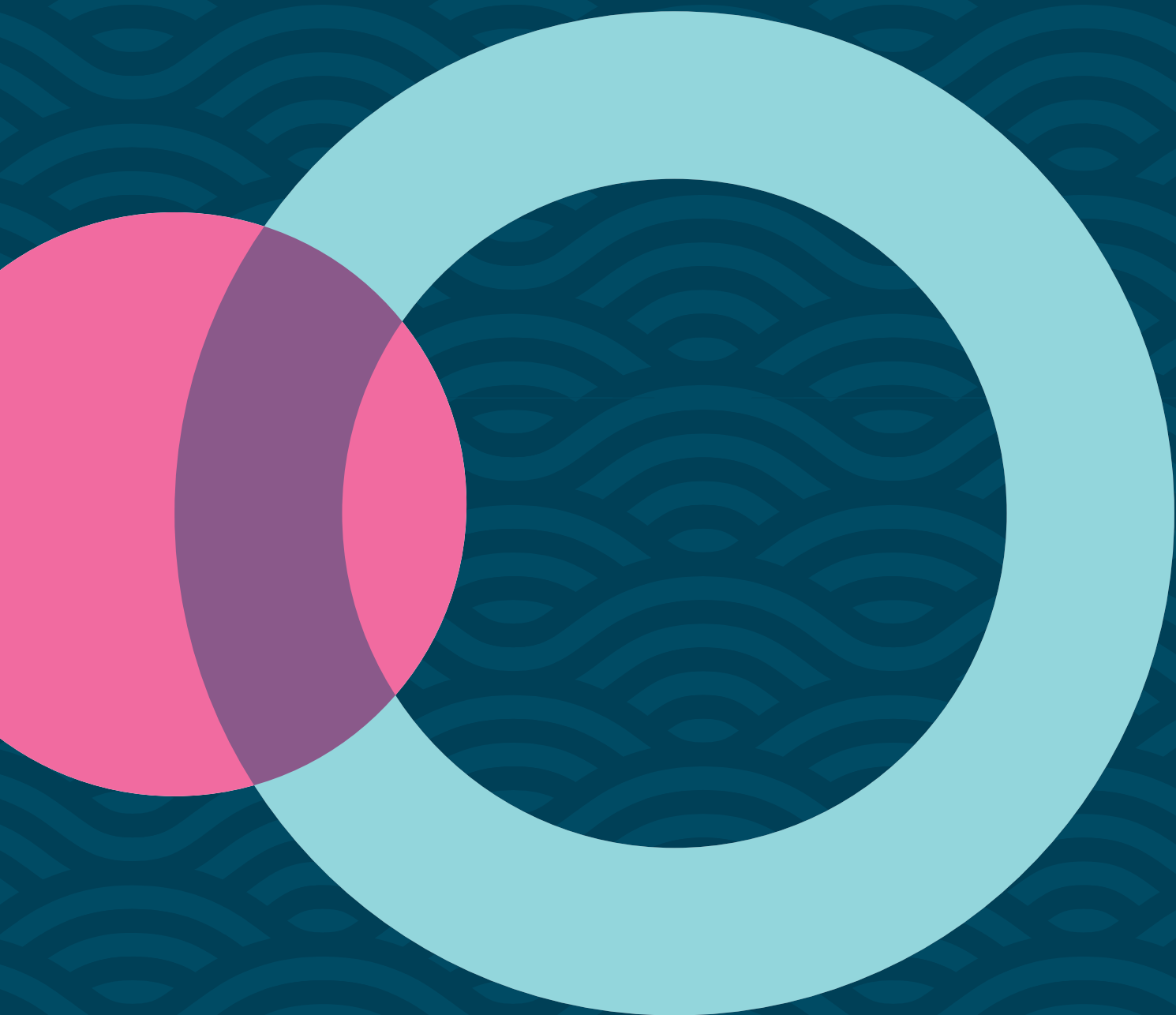




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# A Guide to Child-Centred Complaints Handling





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## 1. Introduction

The Ombudsman for Children's Office (OCO) is a human rights institution that promotes the rights and welfare of children up to the age of 18. The OCO also investigates complaints about services provided to children by public organisations. Our service is free and independent.

Since the Office was established in 2004, we have dealt with almost 15,000 complaints about a wide range of public bodies, including in the education, health, disability, care, family support, child protection, housing and justice sectors. Through our examination and investigation of complaints, we see evidence of both good and poor practice by public bodies in their handling of complaints made by or on behalf of children.

This Guide to Child-Centred Complaints Handling sets out core principles of good practice for dealing with complaints made by or on behalf of children. We have developed the Guide to encourage and support organisations that provide services to children, and make decisions that impact on children, to deal with complaints in accordance with good practice and in a child-centred manner.

This Guide, including the principles of good practice set out in it, is informed by our extensive experience of dealing with complaints and by a literature review, undertaken for the OCO by the Child Law Clinic, School of Law at University College Cork. This review incorporated an analysis of relevant children's rights standards and of initiatives in other countries to promote good practices in handling complaints affecting children. It also looked at international studies that include the views of children and young people on the complaints processes they have experienced across a wide range of sectors.

**To be child-centred, it is essential to consider children's rights when dealing with complaints affecting children. Doing so involves giving appropriate consideration to the best interests of children and taking due account of their views throughout the complaints process. Above all, a child-centred approach to dealing with complaints, while keeping diligently to fair complaints procedures, will maintain a consistent focus on the child or children affected by a complaint, including how the issues raised, the proposed outcome of the process and any follow-up actions will impact on them.**

We appreciate that creating, mainstreaming and sustaining this child-centred focus may sometimes be challenging, including in light of the time and space that may be required. However, it is vital for every organisation that is responsible for developing policies, providing services and making decisions which affect children to do so. We hope this Guide will be of assistance in this regard.

## 2. Child-centred complaints handling in action

Seven core principles of good practice for handling complaints made by or on behalf of children are:



**Openness and  
accessibility**

**Best interests  
of the child**

**Participation  
of children**

**Transparency and  
communications**

**Timeliness**

**Fairness**

**Monitoring and  
review**

**Your organisation can bring these principles to life and deliver a child-centred approach to dealing with complaints made by or on behalf of children by taking actions set out in this Guide.**

## 1. Openness and accessibility

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This means taking account of children's needs and being open and flexible in your approach to meeting those needs. To do this, you should:

- Proactively **encourage feedback** (compliments, comments, concerns and complaints) about your service.
- Provide a **free complaints handling service** for everyone.
- **Learn from complaints** - take an open approach to dealing with complaints and recognise complaints as an opportunity to learn and to improve services.
- **Offer informal and formal options** for making a complaint.
- **Involve children in the development of information materials** about the complaints process - make sure they are easy to understand.
- **Be flexible in accommodating different or additional needs** that children and their representatives may have. This means:
  - making information about the complaints process available to children and their representatives in a variety of accessible locations, formats and languages
  - providing a range of ways for children and their representatives to make complaints (e.g. by phone, in person, in writing, and through messaging apps)
  - finding out about any particular supports that children and their representatives may need during the complaints process (e.g. there may be occasions when you need to use a translator, interpreter or cultural mediator to deal effectively and appropriately with a complaint)
  - holding meetings in an accessible, appropriate location and environment, which support children and their representatives to speak freely about their complaints.

## 2. Best interests of the child

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This means approaching and resolving complaints using a considered process that takes account of what is right for the child or children concerned. In all complaints affecting children, you should:

- Treat **the best interests of the child as a primary consideration** at each stage of the process and in all actions and decisions you take in relation to the complaint.
- Be committed to ensuring **that no harm or distress is caused to the child.**
- Take a multi-disciplinary approach to considering what may be in the best interests of the child by **engaging with other relevant agencies or services**, where appropriate.
- Take a problem-solving approach that is focused on **securing the best outcome** for the child concerned, irrespective of the relationship you and your organisation may have with an adult making a complaint on behalf of the child.
- In cases where the complaint means you need to consider the interests of more than one child, separately assess and seek to **carefully balance the best interests of the different children concerned**, with a view to reconciling possible conflicting interests.
- **Demonstrate clearly** and in writing how you examined and assessed the best interests of the child or children concerned at all stages of the complaints process.

According to the UN Committee on the Rights of the Child, elements that should be taken into account by decision-makers and their staff when assessing and determining a child's best interests in a particular case include:

- the child's views
- the child's individual circumstances and identity, including characteristics such as their age, sex, sexual orientation, national origin, religion and beliefs, and cultural identity
- the child's situation of vulnerability, such as having a disability, belonging to a minority group, being a refugee or asylum seeker, and being a victim of abuse
- other rights of the child that are relevant, including their right to family life, health, education, protection, care and safety

*These factors then have to be weighted against each other and balanced in order to determine the best interests of a child.*

General Comment No. 14 on the right of the child to have his or her best interests taken as a primary consideration, 2013

### 3. Participation of children

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This means making every effort to ensure that complaints made by and on behalf of children are handled with their input. In this regard, you should:

- **Seek the views of the child** affected by the complaint, where the child has the capacity to form a view. Give due weight to the child's views, in accordance with their age and maturity.
- Remember that while every child has a right to be heard, no child has an obligation to express their views: **a child's participation must be voluntary.**
- Start from the position that a child has the capacity to form their own views and that **it is generally in the best interests of the child to be afforded the opportunity to express their views.**
- **Facilitate children to express their views** on the issues raised in the complaint and on any follow-up actions that are proposed. Support children to speak to what they know and remember that it is not necessary for children to have comprehensive knowledge of all of the issues. Make sure that you also support children to raise any issues, which they feel are important or relevant.
- **Be mindful of barriers** that may exist for children in expressing their views freely – for example, power imbalances, fear of negative repercussions of making a complaint, and a lack of trust in authority figures and/or complaints systems (see Section 5 of this Guide). In particular:
  - consult with children about how they would like to be heard as part of the complaints process
  - use approaches and methods that support children to take part effectively and in ways they are comfortable with.
- Always give children the opportunity to **involve a support person** (e.g. a parent/guardian, a trusted professional, a sibling or a friend) if they wish.



Among the important factors to consider when assessing the 'due weight' that should be given to a child's views are:

- What is the impact of the matter on the child?
- To what extent are the child's views consistent with their best interests?
- To what extent does the child understand the implications of their views and the complaints process?
- Have the child's views been expressed freely?
- Do the child's views interfere with the rights of others and, if so, how?

Decision-makers should always explain to the child/children concerned how their views were considered.

## 4. Transparency and communications

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This involves making sure that children and their representatives understand the options that are available to them if they wish to make a complaint, as well as the complaints process itself. To do this, you should:

- **Have a policy and procedure** for dealing with complaints and inform children and their representatives that they can make a complaint.
- **Be clear from the outset** by providing children and their representatives with accessible information about:
  - what types of complaints you can deal with
  - who can make a complaint to you
  - how to make a complaint
  - key features of your complaints process (e.g. the professionals involved and their roles; the stages in the process; any other policies that will apply to the complaint (e.g. your child protection policy); how you record, use and share information, including any limitations on confidentiality; how you will engage and communicate with the child and their representative).
- **Provide guidance** on where the child or their representative can bring their complaint, in cases where the concerns raised are not something that your organisation can deal with.
- **Encourage and support questions** about the complaints process and respond to queries in a timely manner.

- **Acknowledge all complaints** promptly and in writing.
- **Provide regular, clear, accessible updates.** Depending on the stage of the process, updates will include information about:
  - any relevant support services
  - actions taken following your receipt of the complaint
  - next steps, including expected timeframes
  - any meetings relevant to the complaint
  - the progress being made with the complaint, including the outcomes of any meetings or decisions
  - the consideration given to the views of the complainant and, where a complaint has been made on a child's behalf and the child's views have also been sought, the consideration given to the views of the child
  - the reasons for the outcome of a complaint.
- **Support all professionals involved** in the complaints process to develop strong communication and rapport-building skills, including the ability to engage with children in a child-sensitive manner, which takes account of the child's capacities.

## 5. Timeliness

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This means considering the impact of time and making sure that all decision-making affecting children recognises the negative impact that delay can have on children. You should:

- **Prioritise complaints made by or on behalf of children**, aim to resolve complaints early and complete any complaints process affecting children in the shortest time possible.
- **Set reasonable timeframes** for each stage of the complaints process, taking into account the child's sense of time.
- **When a delay occurs, set a new timeframe**, update the child and other parties to the complaint promptly and explain the reason(s) for the delay.
- **Deal with safety and welfare concerns urgently.**

## 6. Fairness

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This means recognising that children are entitled to fair procedures in the resolution of complaints they make and complaints made on their behalf. In order to do this, you should:

- **Deal with all complaints in a fair and impartial manner**, ensuring that the professionals involved do not take sides. Where necessary and appropriate, engage a person independent of the service to investigate the complaint.
- **Investigate complaints fully** by reviewing all relevant information, seeking and considering the views of all relevant parties, and assessing the impact of the concerns raised on the rights of the child or children affected.
- **Conduct separate meetings and interviews** with different parties to the complaint in order to facilitate an inclusive, equitable approach to their participation in the complaints process.
- Make sure that there is an **independent appeals procedure**. Advise children and their representatives of this procedure and the relevant contact details so that they can submit an appeal if they are unhappy with the outcome of the complaints process.

## 7. Monitoring and review

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This principle is about a commitment to quality assurance. To achieve this, you should:

- **Keep accurate, complete, up to date records** of all complaints affecting children.
- **Monitor and review complaints affecting children** to identify any issues or trends that could inform work to improve the services you provide and your complaints process.
- **Review your complaints policy and procedures on a regular basis** (eg. annually). As part of these reviews, seek and consider feedback from children who have previously made a complaint, as well as the views and ideas of wider service users.

### 3. Dealing with complaints made by or for children: a children's rights perspective

Ireland ratified the UN Convention on the Rights of the Child (UNCRC) in September 1992. By doing so, the Irish State made a binding commitment under international law to respect, protect and fulfil the rights of children set out in this international agreement. These rights are for all children under the age of 18, without discrimination.

#### General Principles of the UN Convention on the Rights of the Child (UNCRC)

- **Article 2** – Children must be able to enjoy their rights without discrimination of any kind, irrespective of their circumstances or those of their parents/guardians.
- **Article 3** – Children's best interests must be treated as a primary consideration in all actions and decisions concerning them.
- **Article 6** – Children have a right to life, survival and development.
- **Article 12** – Children have the right to express their views freely and to have due weight given to their views, in accordance with their age and maturity, when decisions are being made that affect them.

Under Article 4 of the UNCRC, the State has primary responsibility for realising children's rights. In addition to taking all appropriate measures to implement children's rights, the State and its actors must establish mechanisms to provide remedies when violations of those rights occur. Among these remedies are independent, accessible, safe, effective and child-centred complaints mechanisms for children and their representatives.

An international panel of children's rights experts called the UN Committee on the Rights of the Child provides guidance to States on how to fulfil their obligations to children under the UNCRC and periodically examines States' progress in this regard.

In its guidance, this Committee has clarified that complaints mechanisms affecting children must respect and protect the rights of children at all stages of the complaints process. As well as upholding the four general principles of the UNCRC (see above), doing so requires public bodies to:

- pay specific attention to giving children information and advice about their rights and the complaints mechanisms that are available to remedy any violation of those rights
- prioritise complaints made by or on behalf of children and deal with such complaints as quickly as possible
- provide and operate safe, reliable complaints mechanisms that enjoy the confidence and trust of children and their representatives
- ensure that all decisions made as part of the complaints process are transparent and arise from a full consideration of the impact of those decisions on the children affected, their rights and best interests.

#### 4. Why take a child-centred approach to handling complaints?

The principal merits of taking a child-centred approach to handling complaints made by or on behalf of children include:

- **Legitimacy** – A child-centred approach is grounded in and required by international children’s rights law, which provides for its legitimacy.
- **Inclusion** – A child-centred approach recognises that children can face particular barriers to accessing and participating in complaints processes affecting them and therefore procedures and practices are adapted to meet children’s specific needs.
- **Best interests of the child** – A child-centred approach fully considers the rights, best interests and needs of the child or children affected by the complaint and supports decision-making that is focused on securing the best outcome for them.
- **Empowerment** – A child-centred approach is empowering for children because it recognises them as rights-holders and agents in their own lives, respects their evolving capacities and supports them to participate in the process if they wish to and in accordance with their capacities.
- **Affirmation** – A child-centred approach affirms that children are welcome to raise their concerns, that they will be treated with respect and that their views will be heard and taken into account.
- **Accountability** – A child-centred approach promotes accountability by decision-makers for and to children and their representatives.

- **Quality improvement** – A child-centred approach can support the identification of gaps in the implementation of children's rights and highlight areas that need to be addressed or improved in the best interests of children.

## 5. Children and young people's views on complaints processes

A number of international studies have sought the views of children and young people on complaints processes they have experienced and their corresponding recommendations for change. Among the main findings of these studies are:

- **Accessibility** – Children and young people recognise the importance of having the option to complain or to seek to have decisions they disagree with changed. While children and young people often want to speak directly to the decision-makers, they can also value and may prefer to have a representative (e.g. a parent/guardian or a trusted peer) to present their views and, if necessary, to support their understanding of the complaints process. In this regard, children and young people believe that a child should have a choice about who their representative is and emphasise that this representative must present the child's views accurately.
- **Transparency** - Children and young people are critical of complaints mechanisms and processes that are overly formal and rely heavily on written communications – for example, that require long, complex forms to be filled out, provide text-heavy information/updates, use language which is difficult to understand, and lack visual aids. They are of the view that complaints processes affecting children should provide information that is designed for and targeted at children. This information should be made available in a variety of accessible formats and locations. Children and young people have also been critical about a lack of transparency as regards how the information they provide during the complaints process will be used. More generally, they have highlighted the importance of being kept updated during the complaints process.

- **Reliability** – Children and young people have expressed a lack of trust and confidence in complaints processes. The reasons for this vary. In some cases, they lack confidence in the effectiveness of complaints mechanisms, believing that nothing would be done or change as a result of making a complaint. In other cases, children and young people are concerned that they would not be believed or listened to and that their concerns or complaints would be misunderstood or treated as trivial or malicious. Children and young people have also expressed fears about potential negative repercussions or reprisals if they make a complaint, as well as concerns that they could be labelled a ‘trouble-maker’ or ‘attention-seeker’.
- **Fairness** – Many children and young people have expressed low levels of trust in the fairness of complaints processes and often see these processes as unfairly administered, biased in favour of staff and lacking independent oversight.
- **Timeliness** - A common reason provided by children and young people for their reluctance to make a complaint is that the complaints procedures in place are too long and the response rates too slow. Some children and young people have shared their experiences of the waiting time being so long that they forgot they had an unresolved complaint. Others highlighted the negative impact that such delays can have in practice, particularly as they are often left waiting in the situation complained about.

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