

# CAPACITY BUILDING FOR RESIDENTIAL SERVICE PROVIDERS

TO RESPOND EFFECTIVELY TO  
INVESTIGATIONS CONDUCTED  
BY THE PROVINCIAL ADVOCATE  
FOR CHILDREN AND YOUTH

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**Ontario Association of  
Residences Treating Youth**

*Centre of Excellence for Residential Care in Ontario*

*"Focused on improving standards, accountability and outcomes for children in care."*



## PREFACE

The Ontario Association of Residences Treating Youth (OARTY) is a provincial charitable association of private residential service providers. Through its member agencies, OARTY promotes the provision of high quality residential group and foster care and treatment for vulnerable children, youth, young adults and their families.

Over this past year, OARTY and the Ministry of Children and Youth Services have worked together to create this Compliance Manual with a goal toward developing and building the capacity of residential service providers to follow a consistent and comprehensive sector-wide approach to dealing with internal complaints concerning the rights of children in care and responding to investigations conducted by the Provincial Advocate for Children and Youth (PACY).

The completion of the Compliance Manual has been accomplished with expertise, passion and dedication. OARTY would like to recognize the following individuals for their hard work in constructing the Compliance Manual and their contribution toward improving the care of children and residential services in Ontario:

Lisa Corrente (Lawyer, Torkin Manes LLP)  
Jennifer Foster, BA CYC (Cert.), BSW (OPR Coordinator, OARTY)  
Rebecca Harris, MA CAE (Executive Director, OARTY)

Torkin Manes LLP was retained to develop the Compliance Manual and provide specialized training to assist residential service providers with formulating robust procedures for handling complaints and effectively responding to investigations conducted by PACY.

Torkin Manes LLP is a full service law firm located in downtown Toronto. For many years, its lawyers have represented the interests of various residential care providers, including group homes, foster homes, homes for special care, long-term care and retirement homes, in all matters of licensing and statutory compliance. As well, Torkin Manes LLP has lawyers with experience in conducting workplace investigations and responding to investigations conducted by Ministries of government and other regulatory bodies.

Jennifer Foster was also engaged to assist in the creation of the Compliance Manual, including refining procedures and forms to address the needs of children from diverse groups. Jennifer is a Child and Youth Care Practitioner and Social Worker with over 23 years of experience specific to residential foster and group care.

The Compliance Manual is the culmination of several steps undertaken over ten (10) months, including:

- Three consultation sessions with residential service providers across the province;
- A review of policies in place at various group and foster homes;
- An on-line survey of residential service providers regarding their specific complaint processes and experiences with PACY investigations;
- Consultations with individual agencies regarding meeting the diversity needs of children in care specific to complaints and investigations;
- Agency review of the forms and templates included in the Compliance Manual;

- A meeting with members of PACY’s Investigative Unit with respect to its investigative practices; and
- Two training sessions for residential service providers with respect to use of the Compliance Manual.

OARTY would like to recognize and convey its gratitude to those agencies that attended the consultation sessions, completed the online survey, shared their policies and procedures and/or commented on the draft Compliance Manual in order to contribute to the development of a standardized complaint and investigation tool for use by all residential service providers:

Ariss Place Residential Care and Treatment	Johnson Children’s Services/Johnson Adult
Avalon Treatment Programs	Foster Care
Bayfield Treatment Centres	Kennedy House Youth Services
Beacon Home	Key Assets
Bluewater Family Support Services, Inc.	Little House Residential Care Services Inc.
Bridgeway Family Homes	Mon Ami Children’s Services Inc.
Broken Arrow Residential Treatment Services	Mutual Support Systems
CARE – FCS	Oakdale Child and Family Service
Catulpa Community Support Services	Participation House Project (Durham Region)
Choices Child and Adolescent Services	Partners in Parenting
Christian Horizons	Pioneer Youth Services
Connor Homes	Quinte Children’s Homes
DLC Residential Services	Satori Homes
Eagle's Nest Foster Care – A Place to Soar	Shifra Homes Inc.
Enterphase Child and Family Services	Stewart Homes
Falconhurst	Sunbeam Lodge
Griffin Centre	Terrace Youth Residential Services Inc.
Harmony Youth Services	Trillium Residential Services
Holloway House	Venture Academy
Jen’s Place Therapeutic Group Care	Wendigo Lake
	Youth Connections

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- Consultation and Review - Jennifer Grant and Diana Cooke - PACY
- Consultation and Information - Dawn Pickering - CARF
- Brochure Design - Richard Teskey

We wish to express our sincerest appreciation to the Ministry of Children and Youth Services for partnering with OARTY and providing funding to complete this project.

We hope that this Compliance Manual is a valuable tool for residential service providers and of assistance to them in providing quality services to children in care and their families.

# CAPACITY BUILDING FOR RESIDENTIAL SERVICE PROVIDERS:

To Respond Effectively to Investigations Conducted by the  
Provincial Advocate for Children and Youth

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# CAPACITY BUILDING FOR RESIDENTIAL SERVICE PROVIDERS: To Respond Effectively to Investigations Conducted by the Provincial Advocate for Children and Youth

## Introduction

As of March 1, 2016, the Office of the Provincial Advocate for Children and Youth (PACY) was given powers to investigate matters concerning a child or group of children receiving services from a children's aid society (CAS) or residential service provider (RSP) where a CAS is the placing agency. These new powers of investigation were granted to PACY through legislative amendments to the *Provincial Advocate for Children and Youth Act, 2007*<sup>1</sup>.

The Ontario Association of Residences Treating Youth (OARTY), in partnership with the Ministry of Children and Youth Services (MCYS), has created this Compliance Manual to develop and build the capacity of RSPs to follow a consistent and comprehensive sector-wide approach to responding to investigations conducted by PACY. Respecting and promoting the rights of children in care is the obligation of every RSP. Therefore, it is imperative that RSPs commit to a consistent approach which supports effective communication amongst them, the children and families which they serve, and PACY.

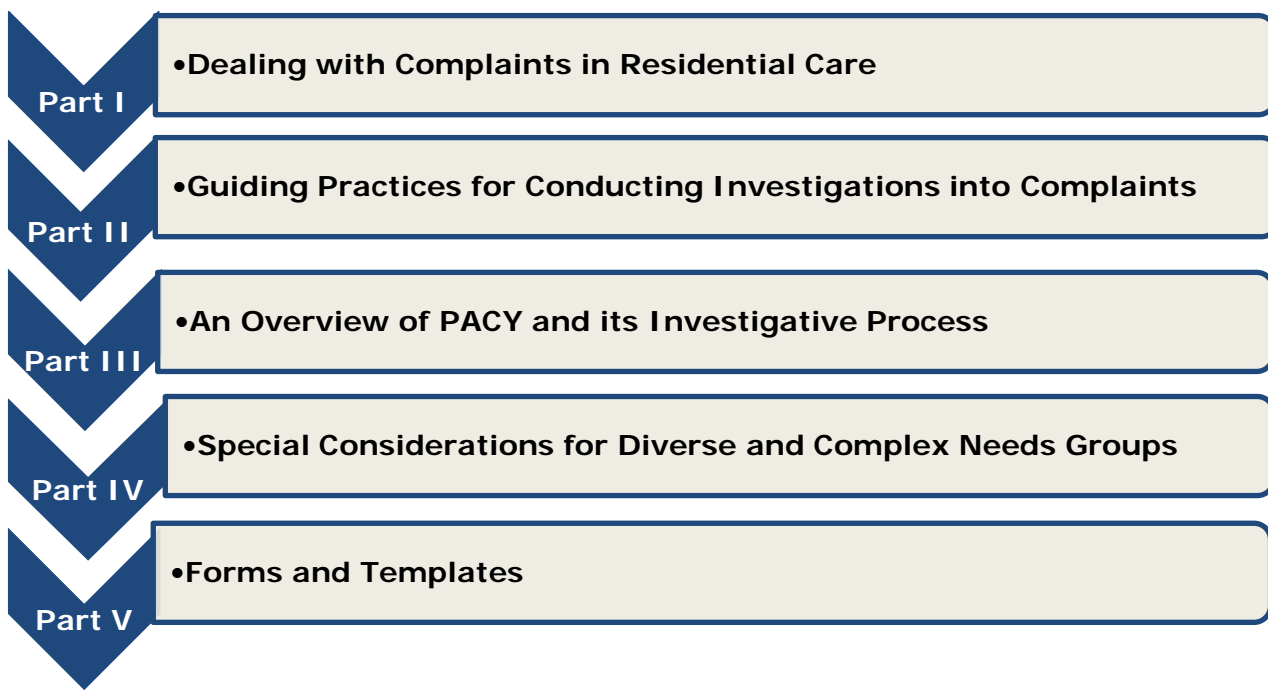
In most cases, investigations by PACY will be initiated in situations where an RSP has not been able to satisfactorily resolve a complaint made by an individual through the RSP's internal complaint procedure. At this time, there is no detailed legislative process for how RSPs must deal with complaints made to them by a child or someone on the child's behalf. Therefore, one of the key objectives of this Compliance Manual is to assist RSPs with developing and implementing standardized procedures for receiving and responding to complaints concerning the rights of children in their care. Comprehensive and uniform procedures for handling complaints internally will help ensure that RSPs deal with complaints in a fair, organized and transparent manner. Further, a thorough and thoughtful approach to reviewing (or investigating) complaints internally can assist RSPs in equitably and appropriately resolving issues without matters escalating to PACY.

Not all complaints can be resolved internally by RSPs and there will be instances in which PACY becomes involved to investigate a concern. In these cases, RSPs which have appropriately dealt with a complaint internally will be better prepared for responding to a PACY investigation. Another key objective of this Compliance Manual is to provide practical guidance to RSPs regarding what to expect from, and how to properly prepare for and respond to a PACY investigation.

## How to Use this Compliance Manual

This Compliance Manual is divided into five (5) main parts:





Part I of the Compliance Manual outlines information for RSPs with respect to their legal obligations to hear and deal with complaints regarding the rights of children in care. Templates have been designed to assist RSPs with developing and implementing standardized internal complaint procedures, including a sample brochure which explains the complaint process, forms suitable for children on how to raise concerns with an RSP, and a system which RSPs can utilize for tracking and reviewing complaints.

In Part II, the Compliance Manual offers guiding practices for RSPs to follow when conducting their own internal reviews or investigations into complaints. These guiding practices are supplemented by standardized templates relevant to the different steps in an investigation such as an introductory letter to the parties, an investigation plan and an investigation report.

Part III of the Compliance Manual provides information with respect to PACY and its investigative function. It contains a step-by-step overview of PACY’s investigative process, with reference to PACY Forms. It also includes practical tips for RSPs when responding to a PACY investigation, including checklists to assist in preparing for requests for documentation and witness interviews.

Part IV of the Compliance Manual reviews special considerations for diverse and complex needs groups from a legal rights, equity and best practices perspective. RSPs serve a diverse population of children with various special needs. As such, special consideration must be given to how RSPs communicate and interact with children for the purposes of responding to their needs, concerns or complaints.

Finally, Part V contains the forms and templates referenced in the earlier parts of the Compliance Manual. There is much diversity in residential programs across the province and the templates contained in the Compliance Manual will not apply to all children, programs or situations. The templates should be reviewed in conjunction with the related sections of the



Compliance Manual and ultimately adapted by RSPs to suit their operations and to meet the individual needs of the children which they serve.

The Compliance Manual also includes several Appendices which provide additional information related to children's rights and the obligations of RSPs within our residential care system. The Appendices have been included to supplement and contextualize the information contained in the Compliance Manual.

## Important Notes

This Compliance Manual is for informational purposes only. It is a resource to assist RSPs in dealing with internal complaints about the rights of children in their care and responding to investigations conducted by PACY. The materials contained in the Compliance Manual are not intended to provide legal advice or opinions of any kind.

Various pieces of legislation work together to create a legal framework for the regulation of RSPs. An RSP should not act, or refrain from acting, based solely upon the materials contained in the Compliance Manual without first seeking appropriate legal or other professional advice.

In particular, the Compliance Manual *does not* replace the obligations of an RSP with respect to allegations of child abuse, the duty to report a child in need of protection, or serious/enhanced serious occurrence reporting under the *Child, Youth and Family Services Act, 2017 (CYFSA)*<sup>ii</sup> and/or applicable reporting guidelines. RSPs must ensure that they follow proper reporting procedures to the appropriate child welfare agency in such circumstances.

At the time that this Compliance Manual was created, the CYFSA had received Royal Assent but had not yet been proclaimed into force. The Compliance Manual was prepared in view of the new legal framework under the CYFSA. It is expected that regulations will be drafted and enacted which will include additional obligations for RSPs regarding children's rights and dealing with complaints. Until the CYFSA and its regulations come into force, RSPs are required to comply with the *Child and Family Services Act*.

References: [Appendix A, Regulation of Residential Service Providers](#)  
[Appendix B, Overview of Mandatory Reporting Obligations](#)  
[Appendix C, Rights of Children in Care](#)



## PART I – DEALING WITH COMPLAINTS IN RESIDENTIAL CARE

### Complaints in Residential Care

A complaint can be defined as the written or verbally expressed dissatisfaction, disagreement or concern about the quality, appropriateness, delivery - including the lack of, or refusal of, the delivery - of a service provided to a child or group of children by an RSP, or the decisions made by an RSP which affect a child or children in its care.<sup>iii</sup>

Complaints in residential care can arise from a variety of sources, including from children, their parents, caregivers, staff members or other persons representing children. As well, complaints will vary in nature and gravity. They may include, but are not limited to, concerns about non-compliance with legislation, policy violations or improper practices by an RSP. For instance, an RSP may receive a complaint relating to:

- children's rights not being respected or met by the service provider;
- the physical environment of a residence;
- a child not being included in treatment planning and decision-making, or their care and treatment being based on inaccurate information;
- inappropriate behaviour or treatment strategies;
- a child not being provided access to or denied a needed service;
- discrimination due to age, gender, sexual orientation, race, religion, language, disability, or some other prohibited ground;
- unfairness with respect to rules and consequences for breaking rules; or
- education, health care, diet, clothing, family contact or cultural practices that are not being respected or followed by the service provider.

Irrespective of the nature of a complaint or its source, an RSP is legally obliged to receive and attempt to resolve complaints regarding matters which relate to the rights of children in their care or to whom they are providing services.

Reference: [Appendix C, Rights of Children in Care](#)

### Requirements for Written Complaint Procedures

Under the CYFSA, a service provider who provides residential care to children, or who places them in residential placements, is required to establish a written procedure for hearing and dealing with complaints. This includes complaints about alleged violations of the rights of children in care (see Appendix C), as well as complaints by children in care or other persons affected by conditions or limitations imposed on visitors or suspension of visits.<sup>iv</sup>



While the CYFSA requires RSPs to establish and implement a written complaint procedure, it does not currently prescribe the contents of such a written procedure (other than a requirement that the RSP advise children that they may seek assistance from PACY with respect to making complaints).<sup>v</sup>



#### Tips Elements of a Written Complaint Procedure:

In order to ensure that RSPs appropriately receive and respond to complaints, it is recommended that their written complaint procedure outline the following:

- The RSP's definition of formal complaint;
- That making a complaint will not result in retaliation or barriers to services;
- The method by which a child can express their concerns in the presence of other children to a program staff person, in private to a program staff person, and in private to the RSP;
- The method by which a parent or another person representing a child can express their concerns in private to a program staff person or the RSP;
- A requirement that the RSP advise children in care that they may seek assistance from PACY in making a complaint or requesting a further review of their complaint after it has been reviewed by the RSP;
- How efforts will be made to resolve the complaint;
- Levels of review, which include availability of external review;
- Timeframes that are adequate for prompt consideration of complaints and result in timely decisions for the person served;
- Procedures for written notification regarding the corrective actions to be taken to address the complaint;
- The rights and responsibilities of each party; and
- The availability of assistance, in addition to assistance from PACY.<sup>vi</sup>

RSPs should keep their written complaint procedure up-to-date with respect to each residence that they operate. The written complaint procedure and any associated forms should be readily available and understandable to the persons served.

References: [Sample Complaint Policy and Procedures, Forms 1-A to 1-F](#)

### Children's Right to be Informed

The CYFSA emphasizes the right of children to participate in all decisions about practice, policy and legislation that affect them. The entitlement to meaningfully participate in decision-making is closely connected to and cannot be considered separately from a child's right to be heard and have their concerns taken seriously. The right to be heard cannot be fully respected and promoted unless a child is properly informed about how to express their views and concerns to an RSP.



Therefore, pursuant to the CYFSA, children have a right to be informed upon admission and at regular intervals thereafter about an RSP's written complaint procedure in a language suitable to their level of understanding.<sup>vii</sup>

They also have a right to be told that they may seek assistance from PACY in making a complaint or requesting a further review of their complaint by the Minister of Children and Youth Services (the "Minister") after the complaint has been reviewed by the RSP.<sup>viii</sup>

RSPs should give thoughtful consideration to their practices for informing children of their right to make a complaint, and whether the children in their care have a real understanding of the complaint process.



#### Tips Indicators of an Accessible Complaint Procedure:

Some indicators that children are aware of, understand and can access an RSP's complaint procedure include the following:

- The RSP has a written complaint procedure that is readily available and understandable to the children they serve;
- The written complaint procedure is supplemented by child-friendly forms which assist children in bringing complaints forward;
- The complaint procedure and related forms are carefully explained to each child upon admission;
- Each child's knowledge of the complaint procedure and related forms is reinforced by the RSP at the first plan of care meeting, and at least every 6 months thereafter;
- Staff is aware of the complaint procedure and is able to explain it to children in a way which is understandable to them;
- Children can state what they do if they have a complaint;
- There is a poster or notice prominently displayed in the residence explaining the complaint procedure;
- There is a notice prominently displayed in the residence advising of the existence, role of and how to contact PACY;
- The residence has a log which notes complaints and that the RSP has sought to resolve them; and
- A review of children's files reveals that the use of the complaint procedure has been documented by the RSP.<sup>ix</sup>

References: [Complaint Handling Procedure Brochure, Form 2](#)

["How Do I Tell Someone": Brochure for Children, Form 3](#)

["I Have a Concern": Complaint Form for Children, Form 4](#)

[Complaint Form \(Youth/Professional/Staff/Parent\), Form 5](#)

[Acknowledgment of Review of Complaint Process \(Parent/Representative\), Form 6](#)





## Reviews of Complaints

### *Review by the RSP*

When a complaint is received by an RSP with respect to a child in its care, that complaint must be reviewed by the RSP in accordance with its established complaint procedure. Recall that a complaint may be received from a child in care or group of children, their parents, another person representing them, or a person affected by a condition or limitation imposed on visitors.<sup>x</sup>

As part of its review, an RSP must seek to resolve the complaint.<sup>xi</sup> An RSP should first attempt to resolve the complaint through an informal review with the parties involved. An informal review of a complaint will seek to resolve the issues without investigating or assessing the merits of the allegations raised. This is a less adversarial approach whereby the parties can discuss their concerns with the RSP and attempt to find a resolution. When an informal process is used, the RSP must still make it clear that the complaint will be taken seriously and addressed by the people who are responsible. Although a formal investigation process will not be necessary if the complaint is resolved, RSPs should log the complaint and any agreed upon outcome on the Complaint Tracking Form.<sup>xii</sup>

Sometimes, complaints cannot be resolved through informal discussion or an informal review is not appropriate because the complaint involves serious or systemic allegations.<sup>xiii</sup> In such cases, the RSP will likely need to conduct a more formal investigation into the issue. Generally speaking, formal investigations should be undertaken as a last resort. Guiding practices for conducting formal investigations into complaints made to an RSP are discussed in Part II of the Compliance Manual.

Whether a complaint is reviewed informally through discussions or formally through an investigation, the results of the review must be shared by the RSP with each person who made the complaint upon completion of the review.<sup>xiv</sup> In appropriate cases, the results of a review should also be shared with the individual(s) about whom the complaint was made.



#### Tips I Received a Complaint from a Child:

- Listen to or review the child's complaint. Provide them with any immediate assistance to ensure that they are not at any risk of harm;
- Review and follow your organization's complaint policy and procedures;
- Provide the child with a brochure outlining your complaint process and explain the process to them in a way which they will understand;
- If the complaint is verbal, consider asking the child to put it in writing. Assist the child in finding a support person to help them write out their concerns. Use the child-friendly forms contained in this Compliance Manual;



- Provide the child with the contact information for PACY and explain that PACY can assist with their complaint;
- Suggest community supports which the child may wish to involve for assistance (e.g. First Nations, Inuit or Métis community representative, multi-cultural multi-religion (MCMR) representative);
- Advise the appropriate person in your organization of the child's complaint so that the RSP may undertake a review (or investigation) of the complaint;
- Acknowledge receipt of the complaint in writing;
- Seek to resolve the complaint (informally or formally); and
- Begin the process of tracking the complaint and its outcome.

**Note:** If the reported concerns trigger a mandatory reporting obligation (e.g. duty to report or serious/enhanced serious occurrence report), follow the appropriate reporting procedures. The RSP's complaint procedures may not be appropriate to deal with the complaint.

### *Review by the Minister of Children and Youth Services*

If the complainant, either as an individual or part of a group, is not satisfied with the results of the review completed by the RSP, that person may request a further review by the Minister of Children and Youth Services. The complainant must make a written request for a review by the Minister. After receipt of a written request, the Minister will appoint a person who is not employed by the RSP to conduct the review. The appointed person must complete the review within 30 days and set out their findings and recommendations in a report. Copies of the report will be provided to the complainant, the RSP and the Minister. Thereafter, the Minister may decide to take action in respect of the complaint and will advise the RSP and the complainant of the decision. <sup>xv</sup>

Remember that RSPs have an obligation to tell a child that they may seek assistance from PACY in requesting a further review of their complaint by the Minister after the complaint has been reviewed by the RSP. A template Complaint to Ministry of Children and Youth Services – Children's Residence (Form 2B) is available on PACY's website.

### **Analysis of Complaints**

An analysis of complaints and how they were dealt with by an RSP can be a valuable exercise to assist RSPs in facilitating change and improving results for the persons served.

RSPs are encouraged to develop and implement an annual written analysis of all complaints received by them. The focus of the written analysis should be to:

- identify and document themes and patterns regarding complaints;
- identify and document areas needing performance improvement;
- identify and document actions to be taken to address the improvements needed; and



- implement and document actions that have been taken or changes that have been made to improve performance.<sup>xvi</sup>

Reference: [Annual Review and Plan for Analysis of Complaints, Form 9](#)

## External Complaint Processes

Sometimes, children in care or someone on their behalf may wish to raise a concern in addition to using, or without going through, the RSP's complaint procedure. For an overview of external complaint processes available to children and others on their behalf, please refer to [Appendix D – External Complaint Processes](#).



## PART II – GUIDING PRACTICES FOR CONDUCTING INVESTIGATIONS INTO COMPLAINTS

### Investigations in Residential Care



When a complaint is received by an RSP, it must deal with that complaint in accordance with its complaint procedures. Pursuant to the CYFSA, an RSP must seek to resolve the complaint.<sup>xvii</sup> An RSP may be able to resolve some complaints through informal discussions (i.e. an informal review) with the parties involved. However, a complaint may not always be suited for informal discussions or the informal review process may prove unsuccessful. In these instances, the RSP will likely need to conduct a formal investigation into the issue.

#### Informal Reviews

As discussed in Part I of the Compliance Manual, an informal review of a complaint seeks to resolve the issues without investigating or assessing the merits of the allegations. Rather, an informal review involves the RSP facilitating discussions between the people involved.

In an informal review, complaints are taken seriously. However, they often involve a minor incident or disagreement, or one which is a low-level concern.<sup>xviii</sup> The subjective experiences of the parties are discussed, and problem-solving is explored, in lieu of gathering facts and weighing the evidence. There is no intention of investigating or disciplining any wrongdoing.

The informal review will consist of meeting separately with the affected parties and discussing possible resolutions with them. The RSP will need to review any stated concerns with the parties to identify and understand the details of the complaint and to discuss any possible resolution, problem-solving, negotiation or change in practice. Of course, both parties must be willing to participate in these informal discussions with a view to resolving their issues.



Thereafter, the RSP can determine if there is a mutually agreed upon course of action by the parties involved that will improve the situation of concern. Solutions, however, can be similar to those recommended through a formal investigation into a complaint.

Consistent with best practices, the timeline for handling an informal review of a complaint and implementing the resolution should be within ten (10) business days.

If the complaint cannot be resolved informally, or the informal process is not appropriate given the serious or systemic nature of the complaint, the RSP should likely initiate the formal investigation process. Generally speaking, formal investigations will be a method of last resort for dealing with complaints.<sup>xix</sup>

## Formal Investigations

This Part of the Compliance Manual sets out key practices to guide RSPs in their handling of complaints; in particular, those which they have been unable to resolve through informal discussions and require a formal investigation. The key practices are:

- Deciding to conduct an investigation;
- Selecting the investigator;
- Determining the scope of the investigation;
- Planning the investigation;
- Witness interviews;
- Gathering and preserving documentary evidence;
- Analysing the evidence and making findings;
- Report writing;
- Taking corrective action; and
- Communicating the outcome.

### Practice #1 – Deciding to Conduct an Investigation

A formal investigation is a fact-finding process which an RSP undertakes in order to determine whether a particular event or conduct occurred. An investigation is triggered by the receipt of a complaint (verbal or written) from a child, parent, caregiver, staff member or another person on behalf of a child.

The first step in the investigation process is deciding whether to conduct a formal investigation. Not all situations are appropriate for investigation by an RSP – for instance, allegations giving rise to a duty to report which will be investigated by a CAS. If the complaint involves allegations which cause the RSP to be concerned that a child may be in need of protection, the RSP must immediately report the complaint and the information on which it is based to a CAS.<sup>xx</sup>

Generally speaking, complaints about the rights of a child in care as outlined in Part II of the CYFSA (see Appendix C) should be investigated by an RSP if they cannot be resolved through an informal review.



A formal investigation will involve interviewing the affected parties and any witnesses, gathering relevant documents and preparing a written report outlining the RSP's findings and any corrective action to be taken.



#### Tips A Formal Investigation is Likely Necessary When:

- The complaint involves allegations which are not of minimal concern;
- The complaint alleges several or repeated violations of the rights of a child;
- The complaint involves multiple parties;
- Information is required from several witnesses;
- One of the parties (usually the complainant) requests a formal investigation;
- The respondent will not take the matter seriously unless there is a formal investigation;
- The allegations involve a risk of harm to the RSP or its staff (e.g. discipline of a staff member, threat of a legal proceeding, damage to reputation); or
- The matter could not be resolved informally.<sup>xxi</sup>

## Practice #2 – Selecting the Investigator

The RSP must decide who will be leading the investigative process – the RSP must appoint an investigator.

The investigator can be someone from within the organization (such as the Executive Director or a member of senior management) or an external person who is trained on conducting investigations (such as a lawyer or consultant).

Whether the RSP decides to use an internal or external investigator, that person must:

- be impartial and objective (e.g. someone who is not involved in the incident and has no interest in the outcome);
- have skills and experience in conducting investigations; and
- have the ability to conduct the investigation in a timely manner.

When selecting an appropriate investigator, an RSP should consider someone who:

- has experience with the residential care sector;
- understands the operations of the RSP;
- is familiar with applicable legislation and the RSP's complaint process;
- is knowledgeable with respect to the subject matter of the complaint; and
- has strong interpersonal skills such that they will be able to build a rapport with the parties and witnesses involved.

Consideration should also be given to whether the investigator should have specific qualifications or characteristics (e.g. gender, race) in order to be able to meaningfully communicate or relate to children from diverse backgrounds or who have complex needs.





### Tips Consider Hiring an External Investigator When:

- There is no internal person who will be perceived to be a neutral investigator;
- There is no internal person with the appropriate skills, training or experience to conduct the investigation;
- The RSP lacks an internal person with the time and resources to conduct an immediate, quick and thorough investigation;
- The complaint involves serious allegations which can carry significant consequences for the parties or the RSP;
- Allegations may place the RSP's operations or reputation at risk;
- The allegations will likely lead to external complaints or claims (e.g. a complaint to MCYS or PACY, a civil law suit, a union grievance, etc.);
- The RSP wishes the investigation to be protected by solicitor-client privilege (i.e. hire a lawyer);
- The investigation is complicated and the RSP wants to avoid the possibility of a flawed investigation; or
- There is a need to build confidence and trust by demonstrating to staff members, children and families that the complaint is being taken seriously.<sup>xxii</sup>

### Practice #3 – Determine the Scope of the Investigation

Determining the scope (or the issues that are to be investigated) is an important preliminary step in the investigation. Usually, the scope of an investigation is determined by the allegations raised in the complaint. Therefore, it is recommended that complainants submit a written complaint to the RSP whenever possible.

The investigator should consult with the RSP to understand how to frame the issues to be investigated. For instance, are the allegations related to a violation of the RSP's policies, non-compliance with legislation, access to a service, participation in decision-making or treatment planning, or some other matter? Framing the issues to be investigated will help ensure that the investigation is not too narrow or broad in scope.

In addition to understanding what are the issues to be investigated, the investigator must also be aware of what matters are clearly outside of his or her mandate. By way of example, during the course of investigating, new allegations could arise which cause the investigator to be concerned that a child may be in need of protection. In these cases, the investigation must stop and the investigator must immediately report the complaint and the information on which it is based to a CAS. If the CAS decides that it will investigate the matter, the RSP should document the CAS' decision and stop its own investigation (and the investigator). If the CAS determines not to investigate, the RSP's investigation may resume.

In cases where an external investigator is engaged, the RSP should also clarify whether it wishes the investigation to be a pure fact-finding activity or whether it also requires a legal conclusion or recommendations to be included in the investigator's report.



In summary, a carefully defined mandate at the outset of the investigation will keep the investigator's focus on the important issues raised in the complaint and set the stage for the next steps.

## Practice #4 – Planning the Investigation

Properly planning the investigation is critical to ensuring that it is completed in a thorough, timely and effective fashion. The level of planning will depend on the nature and complexity of the complaint. Whatever the nature or complexity of the complaint, formal investigations require preparations to be made by the investigator in advance.

 **Tips** When Preparing for a Formal Investigation, the Investigator Should:

- Review the RSP's policies which are applicable to the situation, including the RSP's complaint and investigation policies;
- Review legislation and MCYS and/or accreditation standards which are applicable to the situation;
- Determine whether there is a collective agreement which requires the union's participation in any part of the investigation;
- Determine with the RSP whether any interim measures need to be put in place pending the completion of the investigation (e.g. transferring a staff person, reassigning supervisory relationships, suspending an employee with pay pending investigation, offering EAP services to staff members or other supports to the parties and witnesses);
- Consider whether the parties or witness would benefit from including community supports such as a First Nations, Inuit or Métis or diversity / MCMR representative;
- Carefully review the complaint and any underlying documents (e.g. personnel records, resident files, logs, notes, e-mails);
- Choose a location(s) for the witness interviews which is neutral, comfortable and private;
- Decide who needs to be interviewed as part of the investigation. Typically, the investigator first interviews the complainant(s) and then decides the order of the remaining witnesses and respondent(s) to be interviewed;
- Determine if the interviews will be recorded by note-taking, audio recording or another method;
- Begin drafting questions or identifying subject areas to be explored with the parties and witnesses;
- Determine whether you need any assistance (e.g. an IT professional to recover or repair computer files, someone to take handwritten or computer notes of the interviews);
- Prepare a letter to the parties and witnesses which explains that an investigation will be completed, introduces the investigator, and welcomes the parties and witnesses to involve a support person;
- Follow-up with another letter, phone call or meeting with the parties and witnesses to confirm the date and location of their interview, their choice of support person (if any), and any special accommodations which they may require to participate in the interviews (e.g. translator);





- Put protocols in place to ensure that the investigation file is safely stored, either physically or electronically, or both; and
- Document the planning in an Investigation Plan. This Investigation Plan should be consistent with the RSP’s policy on investigations.<sup>xxiii</sup>

References: [Sample Investigation Policy and Procedures, Forms 10-A to 10-J](#)

[Sample Investigation Plan, Form 11](#)

[Sample Introductory Letter to the Complainant, Form 12](#)

[Sample Introductory Letter to the Respondent, Form 13](#)

[Sample Introductory Letter to Witness, Form 14](#)

## Practice #5 – Witness Interviews

The information which is gathered by interviewing the parties and witnesses is crucial in assisting the investigator to determine how to resolve the complaint. In the case of a formal investigation, the investigator will need to question the parties and witnesses. The investigator should make every effort to interview anyone with information which is relevant to the issues under investigation.

The investigator cannot compel a person to participate in the investigation. Unlike PACY, an investigator conducting an investigation for an RSP does not have the power to summon witnesses. However, an RSP may be able to discipline a staff member who refuses to participate as a party or witness in the investigation in accordance with its policies. As well, a complainant or respondent who refuses to participate as a party runs the risk that the investigator cannot resolve the complaint to their satisfaction. Therefore, when making initial contact with a party or witness, the investigator should emphasize the importance of their participation in the investigation.

The investigator should facilitate a person’s attendance at the interview. Therefore, the investigator should be flexible about scheduling an interview outside of regular business hours or on weekends. Although in-person interviews are generally preferred by investigators, phone interviews are also acceptable. In cases where a witness is unavailable or unwilling to be interviewed in-person or by phone, the investigator can consider putting questions in writing or asking the witness to complete a witness statement.

### Tips Witness Interview Checklist (Formal Investigations):

Prior to the interview:

- Send an introductory letter to the parties and witnesses advising them of the investigation, introducing the investigator and outlining the “rules” (e.g. confidentiality and protection against reprisals);



- As a follow-up to the introductory letter, contact the parties and witnesses to confirm the date, time and location of their interviews, and to discuss procedural matters such as engaging support persons, special needs which require accommodation and the confidentiality of the investigation;
- Resolve any potential issues with the choice of support person. A person who is involved in the investigation cannot act as a support person. Also, a staff member is not entitled to be represented by a lawyer or union representative, unless the RSP's policies or collective agreement indicate otherwise;
- Consider whether additional information is required from the complainant to understand the nature of the complaint. If necessary, obtain more details from the complainant or confirm that there are no additional allegations. Advise the complainant that a summary of their complaint will be provided to the respondent;
- Send a summary of the complaint to the respondent. As a matter of fairness, the respondent has a right to know the allegations and prepare for how to respond to them in advance of the interview. We recommend providing a summary of the complaint rather than the complaint itself;
- Let staff members know that they will be paid for their time while participating in the interview;
- Ensure that the RSP has communicated any interim measures to the affected individuals, including support services available to them;
- Provide the parties and witnesses with a copy of any applicable policies, including the RSP's investigation policy; and
- Advise witnesses that the complaint is not about them. However, do not discuss the nature of the complaint with the witnesses.

#### During the interview:

- Introduce yourself to the parties and witnesses. Explain your role as a neutral investigator, the purpose of the investigation and the investigative process to follow. If someone is assisting you in the interviews with taking notes, explain their role. Answer any questions posed by the witness or their support person;
- Ensure that the parties, witnesses and their support person (if any), are comfortable. Let them know that they can take a break at any time or resume the interview on a later date if necessary;
- Remind parties and witnesses of any available support persons or services;
- Review the importance of confidentiality in a manner which is understandable to the person to be interviewed:
  - The parties and witnesses should be told not to discuss the complaint or the investigation with anyone, except specified support persons;
  - Advise staff members that failing to maintain confidentiality may result in discipline, up to and including termination of employment;
  - Explain to the parties and witness that you will attempt to maintain the confidentiality of the information which they provide you. However, you may be required to share this information with others involved in order ensure a child's safety or to conduct the investigation;



- Explain that you will be preparing a written report of the investigation which will be shared with senior management of the RSP;
  - Explain that the RSP may be required to disclose the investigation file and report if required by law (e.g. to PACY);
- Explain that no one can be penalized or experience consequences for having participated in the investigation and that parties or witnesses should contact you if they experience any reprisals;
- Emphasize the importance of making full and truthful disclosure to the investigator;
- Question the parties and witnesses with an open-mind about their evidence. Do not prejudge or make assumptions about them;
- Interview the complainant first;
- Keep your questions short and simple;
- Ask questions of the parties and witnesses which are open-ended and not leading or accusatory. Try to start every question with who, what, where, when, why or how;
  - What happened? What happened next?
  - Where did it happen?
  - When did it happen?
  - Who was there?
  - What did you see?
  - How long did it last?
- Ask questions in chronological order to help ensure that the parties and witnesses do not miss anything;
- Ask the witnesses “pointed” questions which elicit what they know about the events but reveal as little as possible about the complaint or what others have said;
- Listen to the answers to your questions. Make sure that the parties and witnesses are answering your questions directly;
- Do not interrogate or cross-examine the parties or witnesses. Do not ask questions which try to elicit a specific response. Do not interrupt;
- Try to save tough or embarrassing questions for the end when the parties and witnesses are more comfortable being interviewed;
- Avoid questions about matters which are outside of the scope of the investigation;
- Ask whether there are any supporting documents;
- Always conclude the questioning with asking “Is there anyone else I should speak to?” and “Is there anything else you would like me to know?”;
- After all questions have been asked, request that the parties and witnesses review your notes of their interview and sign them for accuracy. If necessary, give individuals time to review your notes with their support person and confirm their accuracy within a reasonable time after the interview;
- Advise the parties and witnesses that you may need to speak to them again in the near future. Obtain contact information for the parties and witnesses and ensure they have your contact information. Invite them to contact you if they recall any additional details; and
- Thank the person interviewed for their cooperation. Decide on the next person to be interviewed.<sup>xxiv</sup>



Reference: [Sample Witness Statement, Form 15](#)

## Practice #6 – Gathering and Preserving Documentary Evidence

Like the information obtained from witnesses, the information derived from documents or other physical evidence can be essential to an investigation. Sometimes, witnesses may be reluctant to share information which will connect them or someone else to wrongdoing. A witness' recollection of events may be unclear or inconsistent with events described by other witnesses given that memories can fade with time. Documents and other physical evidence can bring facts to the attention of the investigator which were not provided by the parties or witnesses, corroborate facts that were shared by them, refresh memories and clarify inconsistencies in the witnesses' evidence.<sup>xxv</sup>

Therefore, it is imperative that throughout the course of the investigation, the investigator give thought to the relevant documents and other things which need to be gathered. Documentary or physical evidence can be collected from the RSP, the complainant and respondent, witnesses or third parties (e.g. records requested from a telephone service provider). This evidence includes, but is not limited to:

- physical or electronic records (e.g. reports, logs, notes, files, calendars);
- e-mail communications;
- text messages;
- voicemail recordings;
- posts on social media (e.g. Facebook, Instagram, Twitter, blogs);
- internet history or searches;
- letters or cards;
- photographs;
- clothing;
- video or audio recordings; and
- information gathered from an inspection of the site when the alleged events took place.

Remember that, unlike PACY, the investigator appointed by an RSP does not have the power to summons documents or things. Therefore, the investigator must not try to compel individuals to surrender documents or things, or search their personal space or belongings (e.g. person, bedroom, cell phone, purse, locker). The preferred approach is to ask the parties and witnesses to produce the documents or things voluntarily, or to take their refusal to do so into consideration when analysing the evidence. Alternatively, the RSP can provide the investigator with documents or things in which its staff members and residents do not have a reasonable expectation of privacy and are obtained in a manner consistent with the RSP's personal and room search policy.



Once gathered, it is important that the investigator use best efforts to preserve the documents or things in their original form, especially in cases where tampering is suspected or may occur. An original document (even if it is a copy made by the investigator) should not be marked or altered in any way. E-mails should be printed directly from an inbox rather than forwarded to the investigator. Take screenshots of text messages and social media posts. Ask the RSP to save any documents which are on its computer network server. The investigator must ensure that all original documents and things are stored securely in a physical or computer file, or both.

## Practice #7 – Analysing the Evidence and Making Findings

After all of the evidence has been gathered from the parties and witnesses, including documents and things, the investigator has the challenging task of analysing the evidence and making findings of fact. Ultimately, the investigator must decide whether certain events or conduct are more likely than not to have occurred based on the evidence collected during the investigation.

When making decisions about what may or may not have happened, the investigator does not require “proof beyond a reasonable doubt”. Rather, the standard of proof to be used by the investigator is a balance of probabilities. That is, the investigator must determine whether it is more probable than not (greater than a 50% chance) that the alleged conduct occurred.



### Tips How to Make Findings of Fact:

- Review all of the evidence collected. Double check that all parties and witnesses have been interviewed and documents collected. Follow-up with parties and witnesses if any information is unclear or there are outstanding items;
- Carefully consider the information provided by each party and witness.
  - Are there inconsistencies in the narrative provided?;
  - Has the story changed during the course of the investigation?;
  - Does one version of events seem more plausible (i.e. believable) than the other?;
  - Did the individual answer your questions directly or were they evasive?;
  - Was the incident seen or heard firsthand by the witness, or is their evidence based on what others have told them?;
- Look for evidence that corroborates either version of events.
  - Have any of the witnesses provided facts which are consistent with the information provided by one of the parties?;
  - Is the information provided by a party or witness consistent with any of the documents?;
- Make credibility determinations.
  - How did the person behave while being questioned? Were they defensive or answer with excuses? Were they nervous or fidgety?;
  - Does the person have a motivation to lie? Do they have any stake in the outcome? For instance, are they protecting a friend or are they a staff member trying to avoid discipline?;
  - Has the complainant previously made similar complaints which were unfounded?;



- Does the respondent have a prior history of behaviours or misconduct?;
- Be mindful of any special needs, language barriers, expressive and comprehension abilities, mental or physical disabilities, racial or cultural factors which may affect the person’s presentation or demeanor; and
- Weigh all of the evidence and decide if the complaint is:
  - substantiated (i.e. more likely to have occurred);
  - unsubstantiated (i.e. more likely not to have occurred); or
  - inconclusive/unable to determine (i.e. there is insufficient evidence to make a finding).<sup>xxvi</sup>

Reaching a decision that the findings are inconclusive means that the complaint cannot be resolved one way or another. This should happen in rare cases such as when important evidence is missing. The investigator should not decide that the evidence is inconclusive simply to avoid making a determination that the complaint is substantiated or unsubstantiated. This would be unfair to everyone involved.

## Practice #8 – Report Writing

The written investigation report is a detailed outline of the entire investigation. It summarizes the evidence gathered during the investigation and explains the investigator’s findings.

A comprehensive investigation report generally includes the following components:

### The Beginning

A summary of the complaint.

A description of the scope of the investigation.

An overview of the investigative process, including the names of the witnesses, list of the documents and a timeline of steps taken.

An outline of any interim actions taken.

### The Middle

Information relating to the parties (e.g. their relationship to one another and the RSP).

Identification of the applicable legislation, policies and/or standards.

A statement of the evidentiary standard (i.e. balance of probabilities).

A summary of the information collected from the parties, witnesses, documents or other evidence.

### The End

The key factual findings made by the investigator and credibility determinations.

Any issues that could not be resolved.

Recommendations for corrective action, if any (if requested by the RSP).

Date and signature.

Exhibits.



An RSP will not require a detailed written report for every complaint which is investigated. However, complaints which are investigated formally and are likely to escalate to PACY or another authority, or may become litigious, require more thorough reporting. RSPs are encouraged to ask investigators to use the Complaint Outcome Form or to prepare a comprehensive investigation report, whichever is most appropriate in the circumstances.

Irrespective of how the investigative findings are documented, the RSP should be mindful of the fact that the investigation report and the underlying investigative file may be subject to disclosure if privilege cannot be asserted over them. PACY has confirmed that it will ask an RSP to produce its entire investigative file, including any written investigation report, for the purpose of a PACY investigation.



#### Tips When Writing an Investigative Report, Be Sure To:

- Organize the report in such a way that anyone reading it will understand it without having to look at other materials. Attach documents and witness statements as exhibits;
- Consider whether the names of individuals mentioned in the report should be anonymized to protect their privacy;
- Always assume that a third party (such as PACY) will eventually read the report;
- Use a neutral, respectful and professional tone. Be thoughtful about language which is used to describe sensitive issues or witness credibility;
- Document your factual findings clearly, accurately and objectively. Connect your findings with the evidence whenever possible;
- Not soften or sanitize language used by the parties and witnesses to describe an incident. Quote them exactly;
- Not waste time reciting irrelevant facts;
- Address all of the allegations made in the complaint and link them to the applicable law, policies and/or standards;
- Avoid conclusions which are not based on evidence presented in the report;
- Not make legal conclusions;
- Reach a determination as to whether the complaint (or specific allegations) are substantiated, unsubstantiated or inconclusive. A determination that an allegation is inconclusive should not be made as an easy way out;
- Proofread your report for spelling, grammar, tense and punctuation before it is finalized; and
- Ensure secure storage and retention of your investigation file.<sup>xxvii</sup>

References: [Complaint Outcome Form, Form 16](#)

[Investigative Report Template, Form 17](#)



## Practice #9 – Taking Corrective Action

Based on the findings made by the investigator, the RSP will have to decide whether a policy, practice standard or legal requirement has been violated. The RSP may need to seek legal advice to assist it in making this determination. If the RSP selected a lawyer as the investigator, the investigator can be requested to provide a legal opinion in this regard.

If a violation has been found, the RSP will need to determine the appropriate consequences for the person(s) who are responsible for the misconduct. If a staff member is found to have committed the violation, appropriate corrective action could include:

- An apology;
- Counselling;
- Education and training;
- Verbal or written reprimand;
- Suspension with or without pay;
- Transfer to another position; or
- Termination of employment.

If the complaint is made against another child who is a resident of the program, all corrective action or consequences should be determined with the input of the child's worker, parent/guardian or representative, and support or diversity person and within the scope of the child's abilities and treatment planning.

In determining the appropriate consequences, the RSP should take into account the nature of the violation, its severity and whether the individual has previously been responsible for similar misconduct. The consequences should be aimed at repairing the effects of the wrongdoing on the complainant and preventing any further recurrences of similar conduct within the residence.

## Practice #10 – Communicating the Outcome

Once completed, a copy of the investigation report should be provided to the RSP and anyone else whom the RSP has approved to receive the report (e.g. its lawyer). Once the RSP reviews the investigation report, it can decide on whether corrective action should be taken and in what form (see Practice #9).

The parties are not entitled to receive a copy of the investigator's report, unless this was agreed to by the RSP at the outset of the investigation or as a matter of policy. However, the parties should be provided with a summary of the investigator's findings and advised whether or not corrective action will be or has been taken. Remember that the CYFSA requires an RSP to inform each person who made the complaint about the results of the RSP's review once completed.<sup>xxviii</sup>

RSPs should be cautious about how much detail to reveal to a complainant about any corrective action taken against the respondent. Consideration should be given to the respondent's privacy interests.





The outcome of the complaint should also be documented by the RSP for the purpose of tracking complaints (e.g. using the Complaint Tracking Form) and its annual analysis of complaints (e.g., using the Annual Review and Plan for Analysis of Complaints) in order to track trends and make improvements for persons served (see "Analysis of Complaints" in Part I of the Compliance Manual).

References: [Investigation Outcome Letter to the Complainant, Form 18](#)  
[Investigative Outcome Letter to the Respondent, Form 19](#)



## PART III – AN OVERVIEW OF PACY AND ITS INVESTIGATIVE PROCESS

### Office of the Provincial Advocate for Children and Youth

PACY is an office of the provincial government which reports directly to the Legislature. It was created by the *Provincial Advocate for Children and Youth Act, 2007*<sup>xxx</sup> (PACY Act) in order to provide an independent voice for Ontario's children and youth who are either in care or on the margins of government care.

In response to a request, complaint, or on its own initiative, PACY's role is to act on behalf of concerns of individuals or groups of children or youth by undertaking reviews, making recommendations, and providing advice to governments, facilities, systems, agencies or service providers, including RSPs.<sup>xxx</sup>

The mandate of PACY is set out in s.1 of the PACY Act as follows:

- providing an independent voice for children and youth, including First Nations, Inuit and Métis children and youth and children with special needs, by partnering with them to bring issues forward;
- encouraging communication and understanding between children and families and those who provide them with services;
- educating children, youth and their caregivers regarding the rights of children and youth; and
- As of **March 1, 2016**, conducting investigations (individual and systemic) and making recommendations to improve CAS services and services provided by RSPs where a CAS is the placing agency.

### Functions of PACY

In fulfilling its legislated mandate, PACY has two main functions: advocacy and investigations. PACY carries out these functions with regard to the paramount purpose of the CYFSA to promote the best interests, protection and well-being of children, as well as the principles expressed in the *United Nations Convention on the Rights of the Child*.<sup>xxxi</sup>

PACY is required to ensure that its advocacy and investigative functions remain separate. Thus, an individual staff member at PACY cannot perform advocacy and investigative functions at the same time.<sup>xxxii</sup>

For additional information on PACY's advocacy function, please refer to [Appendix D – External Complaints Processes](#).



## PACY's Investigative Unit



PACY's Investigative Unit has the function of investigating any matter that comes to its attention from any source, or on its own initiative, concerning a child, youth or group of them. The Investigative Unit has the authority to conduct individual and systemic investigations with respect to: (i) a CAS service; or (ii) a service provided by an RSP where a CAS is the placing agency.<sup>xxxiii</sup> Systemic investigations are those concerning a group of children that may lead to recommendations relevant to children who are in similar circumstances.<sup>xxxiv</sup>

The Investigative Unit is overseen by the Provincial Advocate. The Provincial Advocate is a person appointed by a panel of the Legislature and must have significant experience in areas such as children's mental health, child welfare, developmental services, youth justice, education or pediatric health services.<sup>xxxv</sup> The Provincial Advocate is responsible for appointing a Director of Investigations.<sup>xxxvi</sup>

The Director of Investigations must be a person with significant experience in investigations and child protection.<sup>xxxvii</sup> The Director of Investigations establishes and oversees an investigative team.<sup>xxxviii</sup>

The investigative team is responsible for conducting individual and systemic investigations and providing advice and guidance to the Provincial Advocate with respect to these investigations. The investigative team must consist of individuals with significant experience in investigations and child protection. It may also include individuals with significant experience in other areas relevant to investigations such as pediatric health services, children's mental health services or child development services.<sup>xxxix</sup>

The Director of Investigations and the investigative team cannot provide advocacy to children and youth. Also, subject to certain exceptions, the Director of Investigations and the investigative team cannot share information about an investigation with anyone outside the Investigative Unit, other than the Provincial Advocate.<sup>xl</sup>

## Jurisdiction to Investigate

PACY's jurisdiction to investigate is set out in s.15(2) of the PACY Act, which provides that PACY has the function of investigating any matter that comes to its attention from any source or on its own initiative concerning a child or group of children with respect to:

- a CAS service; or
- a service provided by an RSP where a CAS is the placing agency.



This broad jurisdiction to investigate applies to both individual and systemic investigations. However, the jurisdiction of PACY to investigate matters is not unlimited. Section 16.4(1) of the PACY Act lists the matters which PACY is prohibited from investigating:

#### Matters Excluded from Investigation:

Pursuant to s.16.4(1), PACY is prohibited from investigating the following matters:

- Child deaths that fall within the jurisdiction of the Office of the Chief Coroner or of any committees that report to the Chief Coroner;
- Matters that are eligible for review by or have been decided by the Child and Family Services Review Board;
- Matters that are the subject of licensing inspections or reviews of orders for extended CAS care or the subject of inspections or reviews by the Ministry, where the investigation by PACY would, in the opinion of the Director, interfere with the inspection or review;
- Matters that are eligible for resolution by a complaints or review process under the PACY Act or the CYFSA, until after the complaints or review process is completed;
- Matters where another investigative authority is conducting an investigation, until after that investigation is completed (e.g. police); and
- Matters where there is, under any Act, a right of appeal or objection or a right to apply for a hearing or review on the merits of the matter to any court or tribunal, until the right of appeal or objection or application has been exercised in the matter or until after any time for the exercise of the right has expired.

#### Exception from Systemic Investigations:

PACY may conduct a systemic investigation into child deaths within the jurisdiction of the Chief Coroner or matters decided by the Child and Family Services Review Board after the processes for dealing with these matters have been completed. PACY must first determine that a systemic investigation is necessary to promote the best interests, protection and well-being of children and principles expressed in the *United Nations Convention on the Rights of the Child*.<sup>xli</sup>

It is important to note that PACY is required to adhere to the concept of “last resort”. That is, individuals must exhaust an RSP’s internal complaint process before PACY can commence an investigation into their concerns.

If any question arises about whether PACY has jurisdiction to investigate any matter, an application can be made to the Divisional Court for a declaratory order determining the question.<sup>xlii</sup>



## Discretion Not to Investigate

PACY has limited discretion not to investigate a matter within its jurisdiction, or not to further investigate any matter if, in its opinion, one of the following applies:

- It appears to PACY that under the law or existing administrative practice there is an adequate remedy in respect of the matter, whether or not the person raising the matter has availed himself, herself, or itself of it;
- The person who raised the matter with PACY does not have a sufficient personal interest in the subject matter that was raised;
- The matter is trivial, frivolous or vexatious or is not raised in good faith; or
- A child who is the subject of or affected by the matter indicates that he or she does not want the matter to be pursued.<sup>xliii</sup>

PACY must give the complainant notice in writing of its decision not to investigate or further investigate the matter and of the reasons for the decision.<sup>xliv</sup>

## Power to Compel Information and Documents

In carrying out its investigative function, PACY has the power to hear or obtain information from persons that it thinks may be relevant to the investigation and may make inquiries relevant to the investigation.<sup>xlv</sup> As well, PACY may require an RSP, its officers and employees, or any other person to produce documents or things which, in PACY's opinion, relate to the matter under investigation and which may be in that person's possession or control.<sup>xlvi</sup> A person from whom information or documents are required by PACY must provide the information and documents or things to PACY when requested to do so.<sup>xlvii</sup>

## Limits on Disclosure of Information and Documents

PACY's authority to require disclosure of information or a document or thing is not unlimited. Section 16.3(1) of the PACY Act provides that PACY cannot require any information or answer to be given or a document or thing to be produced where the Attorney General certifies that the giving of the information, the answering of a question or the production of a document or thing: (i) might interfere with or impede the investigation, detection or prosecution of an offence; or (ii) might reveal the substance of deliberations of the Executive Council or any of its Committees without authority to do so.

In addition, PACY cannot require the provision of information, the production of a document or thing, or the giving of an answer if this would result in disclosure of: (i) information subject to solicitor-client privilege; or (ii) information prepared by or for counsel for a Ministry or a public body for use in giving legal advice or in contemplation of litigation.<sup>xlviii</sup>

As well, a person who is bound by statute to maintain secrecy in relation to a matter, or not to disclose a matter, cannot be compelled to supply information, documents or things to PACY if doing so would be in breach of that person's statutory obligation of secrecy or non-disclosure.<sup>xlix</sup>

Note, however, that privacy legislation such as the *Freedom of Information and Protection of Privacy Act* or the *Personal Health Information Protection Act, 2004*, does not prevent a person



from providing personal information to PACY's investigative team. That is, s.16.1(8) of the PACY Act entitles PACY to collect non-redacted personal information about an individual for the purposes of its investigation.

## Responding to a PACY Investigation

One of the key objectives of this Compliance Manual is to assist RSPs in understanding PACY's investigative process and to build their capacity for responding to an investigation. This section describes PACY's general practices in carrying out an investigation. However, PACY may choose to follow a different process depending on the circumstances of the investigation. This section also provides practical tips to consider when preparing for and responding to each stage of the PACY investigation.

### Three Stages of the PACY Investigation



A PACY investigation consists of three stages:

- **Notification.** A PACY investigation begins with being contacted by a member of the Investigative Unit who will advise of the intention to conduct an investigation. PACY will provide RSPs with an opportunity to participate in an introductory briefing about the investigative process to follow.
- **Information Gathering.** During this stage, PACY will gather evidence relevant to the matter under investigation by collecting documents and interviewing witnesses.
- **Reporting.** Following the completion of the investigation, PACY will prepare a public report summarizing its findings and recommendations.

Each of these stages is discussed in detail below.

### Stage One - Notice of a PACY Investigation

Pursuant to s.17(1) of the PACY Act, PACY is required to provide notice of its intention to conduct an investigation into a matter concerning the services provided by an RSP (if the CAS is the placing agency) to the RSP and the MCYS.

Generally, the first step in the notification process is for PACY to advise the Director of the MCYS of the matter, even if PACY does not intend to conduct an investigation.<sup>i</sup>

After the MCYS has been notified and where PACY intends to undertake an investigation into the matter, PACY will advise the administrative head of the RSP of its intention to conduct the investigation.<sup>ii</sup>



## A Courtesy Call from the Director of Investigations

Notification of PACY's intention to conduct an investigation is first given to the RSP by way of a courtesy phone call to the administrative head of the RSP by the Director of Investigations. The purpose of the phone call is to advise of PACY's intention to investigate, explain that the RSP will be receiving a "Notice of Investigation" and a "Document Request", and to offer the RSP an opportunity to participate in an introductory briefing (i.e. a meeting) with PACY in order to discuss the investigative process before the investigation begins.

## Notice of Investigation Letter

The Notice of Investigation is in the form of a letter from the Director of Investigations to the administrative head of the RSP. Typically, the Notice of Investigation will be sent by e-mail. It advises of PACY's intention to conduct an investigation, the expected scope of the investigation, that the RSP will be contacted shortly by investigators to obtain information and documents, and provides the name and contact information for the lead investigator. The Notice of Investigation also explains that an introductory briefing on the investigation can be arranged with PACY at the RSP's convenience.



### Tips I've Received a Notice of Investigation:<sup>iii</sup>

- Notify the appropriate individuals within your organization that PACY intends to conduct an investigation (e.g. senior management, your legal counsel);
- Determine who within your organization will be the primary contact person(s) for PACY, will monitor the progress of the investigation and coordinate your organization's response (the "Investigation Lead"). This person(s) can also act as the main contact for children, parents, staff members and others who may have questions about the investigation as it progresses. The Investigation Lead cannot be a person who may be required as a witness in the investigation;
- Identify the Investigation Lead to PACY. Request that all future communication be directed to the Investigation Lead;
- Create a file to track the investigation.
  - Keep all written communications with PACY in the file and accurately document dates, timelines, discussions, meetings and actions taken;
  - Ensure secure storage of the file (physical and/or electronic);
  - Limit access to the file to the Investigation Lead and other designated members of senior management;
- Consider whether PACY has jurisdiction to conduct an investigation.
  - Does the matter relate to a child that has been placed by the CAS?;
  - Is this a matter which PACY is prohibited from investigating?;
  - Has the complainant exhausted your internal complaints process?;
  - If you have concerns relating to PACY's jurisdiction, raise them with PACY and seek legal advice as necessary;
- Consider whether this may be a matter in which it is appropriate to ask PACY to exercise its discretion not to conduct an investigation;



- Identify, locate and review any relevant files, policies or other records which may be requested by PACY (e.g. child’s file, serious occurrence reports, underlying complaint file);
- Identify staff members, children, parents and others who may be interviewed by PACY as part of the investigation. Consider how to communicate the investigation to them when the time is right;
- Review the PACY Act and other resources available from PACY and OARTY to refresh your understanding of your rights and obligations relating to the investigation;
- Decide if and when you wish to participate in an introductory briefing with PACY and who from your organization should attend the briefing (e.g. Investigation Lead). Determine whether you wish to have this meeting prior to providing documentary disclosure to PACY or at some other point in the investigation;
- Understand the complaint being investigated.
  - Is PACY conducting an individual or systemic investigation?;
  - What is the precise scope of the investigation to be conducted by PACY? Is it consistent with the issues raised in the underlying complaint to your organization?;
  - How did your organization deal with the complaint internally and what was the outcome?; and
- Consider what protocols should be taken by your organization and PACY in order to accommodate the diverse needs of the children involved. Discuss the identified needs with PACY before the investigation begins (for instance, during the introductory briefing)
  - Notification of the child’s First Nations, Inuit or Métis community if the investigation will involve a First Nations, Inuit or Métis child or children;
  - Offering to communicate in French with Francophone children who will participate in the investigation; and
  - Involvement of community agencies supporting specific cultural, religious or diverse groups to ensure that the investigation is conducted in a manner which respects their differences.

References: [Request for Investigation: Children’s Residence, PACY Form 1](#)  
[Sample Notice of Investigation, PACY Form 2](#)

## Stage Two - Information Gathering

The second phase of a PACY investigation – information gathering – involves PACY requesting pertinent documents or things from the RSP and interviewing witnesses who may have information relevant to the investigation such as children or staff. The information gathering stage typically begins with PACY collecting documents, followed shortly thereafter by witness interviews.





## Draft Document Request Letter

Information gathering begins with the RSP receiving a Document Request from PACY in the form of a draft letter shortly after receiving the Notice of Investigation. The Document Request will likely be sent electronically to the administrative head of the RSP. It will contain an initial list of documents which the Investigative Unit requires from the RSP such as serious occurrence reports, incident reports, daily log notes, staff communication logs and supplementary occurrence reports. The Document Request will indicate that PACY requires non-redacted versions of the documents, either by courier or in electronic format, by a specific date and time. PACY usually provides the RSP with two to three weeks to produce the documents. However, PACY may extend the deadline for producing the documents in extenuating circumstances. Generally, PACY prefers to receive the documents in electronic format.

The Document Request will also confirm whether the RSP wishes to receive a formal Summons before producing the documents to PACY. PACY will typically contact the RSP to inquire about whether it wishes to receive a Summons before sending the Document Request. An RSP may request that PACY issue a formal Summons. The Summons will require a specific representative from the RSP to attend at PACY's office on a particular date to be examined under oath or affirmation and to produce the documents listed in the Summons. If the RSP delivers the requested documents to PACY prior to the date listed in the Summons, PACY will notify the RSP that the Summons has been cancelled. This process is explained in the Document Request.

Finally, the Document Request will advise that additional documents may be required by PACY prior to the completion of its investigation and therefore, all documents should be kept secure by the RSP until the completion of the investigation.



### Tips I've Received a Document Request:<sup>liii</sup>

- If you are not the Investigation Lead, provide the Investigation Lead with the Document Request immediately upon receiving it;
- Decide whether your organization wishes to receive a Summons and who is the appropriate person to whom the Summons should be directed. If you have not already done so, advise PACY that your organization wishes to receive a Summons;
- Review the documents or things listed in the Document Request to determine whether they can be produced to PACY by the specified deadline, or if an extension of the deadline may be required. If an extension is required, make a request to PACY in writing as far in advance of the deadline as possible;
- Determine who will be responsible for gathering and organizing the documents or things requested by PACY. For instance, this can be the Investigation Lead or their designate. It must not be a person who may be required to participate as a witness in the investigation;
- Review all of the documents or things before they are produced to PACY. Consider whether each requested document or thing must be produced. A document or thing does not have to be produced if:
  - it clearly does not relate to the matter under investigation;



- it is subject to solicitor-client privilege;
- it falls within the class of documents or things exempt from disclosure under s.16.3 of the PACY Act (see Limits on Disclosure of Information and Documents); or
- there is some other legal basis for not producing it;
- Ask your legal counsel to review the requested documents or things and advise you on any documents or things that are not subject to disclosure;
- Contact PACY before the disclosure deadline to discuss documents or things which the RSP determines are not subject to disclosure, or not in its possession or control. Ask PACY to provide you with a final copy of the Document Request;
- Maintain a detailed chart of documentary disclosure including the documents or things requested by PACY and the date of the request, documents or things that have been produced to PACY and the date of production, and documents or things which have not been produced to PACY and the reason for not disclosing them;
- Maintain an exact copy of the documents or things that were sent to PACY. Keep them organized in your file relating to the PACY investigation. Do not mark or otherwise alter these documents;
- Keep records of your communications with PACY concerning documentary disclosure in the PACY investigation file;
- Ensure that any documents or things relevant to the investigation are kept securely until the completion of the PACY investigation. Keep in mind that PACY may request additional documents or things not included in its initial Document Request at some point later in the investigation; and
- Review the documents to be produced to PACY to ensure that they are those requested and are complete. Decide who will sign the Certificate of Production of Documents.

References: [Sample Document Request, PACY Form 3](#)

[Sample Summons, PACY Form 4](#)

[Certificate of Production of Documents, PACY Form 5](#)

## **Witness Interviews**

Recall that interviews of witnesses by PACY usually follow shortly after the production of documents has been made by an RSP. Either at the same time that a Document Request is received or after the documents have been produced, PACY will send an RSP a list of witnesses from within the organization that it wants to interview.

PACY can summon any person with information relevant to the investigation to be examined under oath or affirmation before an investigator. This includes an officer, employee or other member of the RSP. Any person summoned by PACY as a witness during the investigation is obliged to provide information to PACY, subject to the limitations on disclosure set out in s.16.3 of the PACY Act (see Limits on Disclosure of Information and Documents).



PACY will generally give the RSP an opportunity to advise a staff member that they are amongst the persons to be interviewed prior to PACY contacting them. The RSP will receive an "Interview Schedule and Process" letter from PACY for each staff member to be interviewed. This letter is generally accompanied by the Summons and attendance money for the witness. However, sometimes, the Summons and attendance money may follow after the letter.

Interviews of witnesses can take place at the RSP's premises or off-site at a location to be determined in advance by PACY and the witness. Witnesses are always interviewed separately. As mentioned above, witnesses will be examined by an investigator(s) under oath or affirmation. As well, the PACY investigator(s) takes notes and will usually audio record the interview. Generally, witness interviews are not video recorded but there may be exceptions to this practice as determined by PACY. If necessary, a witness may be asked to sign a document (such as a diagram they draw during the interview) given that such evidence cannot be audio recorded.

Witnesses are permitted to take notes during the interview, but not to audio or video record it. They may also be permitted to bring notes into the interview to assist them with remembering specific dates and events.

Witnesses are generally permitted to bring one support person of their choosing with them to the interview, such as a lawyer, union representative, advisor, family member or friend. However, the support person cannot be someone who is also part of the investigation. A support person will be required to sign a "Confidentiality Undertaking" in which they agree to keep the information discussed during the interview strictly confidential. Depending on the circumstances, the Confidentiality Undertaking may permit the support person to disclose confidential information to the administrative head of the RSP provided that:

- the disclosure will not directly or indirectly interfere with the investigation; and
- the person receiving the confidential information undertakes not to make the information public, to disclose the information to any person who may be interviewed as part of the investigation, or to otherwise do anything with the confidential information which may interfere with the investigation.



#### Tips PACY Will Be Interviewing Members of Our Organization:<sup>liv</sup>

- If you are not the Investigation Lead in your organization, provide the Investigation Lead with the witness list received from PACY immediately upon receiving it; and
- Review the witness list to determine which individuals from your organization will be interviewed. If there is a witness within your organization who PACY has missed and should be interviewed, advise PACY.

Prepare your staff:

- Let your staff member know in advance that they will be interviewed by PACY as part of an investigation. Although you may share the general nature of the matter being



investigated by PACY, do not discuss the staff member's knowledge or involvement in the matter or identify other persons to be interviewed by PACY. Staff members should be spoken to individually and in private;

- Ask the staff member to let you know the date and time of their interview once it is set in order to arrange for coverage and avoid disruption to care of your residents;
- Explain the role of PACY and the investigative process to the staff member to be interviewed. Answer any questions from your staff member about the investigative process;
- Advise the staff member that they will be required to provide information to investigators under oath or affirmation. Therefore, the information provided to investigators must be truthful and as accurate as possible, and not based on opinion, speculation or guessing. Explain that lying to investigators is perjury, which is a criminal offence;
- Consider whether there are any records or notes underlying the matter under investigation which the staff person can review in order to refresh their recollection of events prior to the interview;
- Review any limits on the staff member's ability to disclose information to investigators such as statutory obligations of secrecy or solicitor-client privilege. If necessary, seek legal advice in this regard;
- Explain that the PACY Act offers protection against self-incrimination. That is, no statement made by a person to investigators can be used against the person in any other proceedings, except perjury;
- Discuss the option of having a support person present during the interview and canvas who may be the appropriate person;
- Emphasize to the staff member that the PACY investigation is strictly confidential and they cannot discuss their evidence or other aspects of the investigation with anyone, except the Investigation Lead who is subject to a confidentiality undertaking;
- Remind the staff member of any workplace policies that protect them from intimidation or reprisal for having participated in the investigation;
- Explain to staff that investigators may require witnesses to provide additional information or documentation in a follow-up interview(s). Therefore, the staff member may be interviewed more than once;
- Provide your staff member with a copy of PACY's "*What to Expect from an Investigation*" brochure;
- Ensure that staff members clearly understand their obligation to cooperate with PACY investigators. In particular, emphasize that documents or other records cannot be altered or destroyed. Explain that it is an offence to obstruct or mislead PACY in the performance of its functions;
- Remind staff members to conduct themselves in a manner which is professional and courteous at all times. Assure staff members that they can speak to you about any concerns with respect to the conduct of the investigation;
- Remind staff of any EAP or other support services which are available to them;
- After the interview, consider whether you need to "debrief" with the staff witness and/or support person about the interview with PACY. Remember that it is the right of the witness to keep what was discussed at the interview confidential. Be mindful of your



obligation to protect the confidentiality of any information shared with you and not to interfere with the investigation; and

- Keep all written communication with witnesses and PACY in your PACY investigation file.

Prepare your residents:

- If you know that a child will be interviewed by PACY as part of an investigation, let the child and their parent(s)/guardian(s) know in advance. If appropriate, you may share the general nature of the matter being investigated by PACY, but do not discuss the child's knowledge or involvement in the matter or identify other persons to be interviewed. Children should be spoken to individually and in private;
- Inform the child, in a language and manner suitable to their understanding, of the role of PACY and the investigative process. Answer any questions the child may have about the investigative process so that they know what to expect;
- Explain to the child the importance of being honest with PACY investigators and that they cannot be punished for having participated in the investigation;
- Provide the child with the contact information for PACY and the Investigation Lead in your organization. If the child wishes, afford them with the means to contact PACY privately and without delay;
- Ask the child to let you know the date and time of their interview once it is set so that you can facilitate their attendance at the interview and organize their schedule to avoid disruption to care;
- Discuss the option of having a support person present during the interview and canvas who may be the appropriate person. Arrange for any support services the child may require. For instance, consider involvement of the child's First Nations, Inuit or Métis community, a diversity representative or a community agency;
- Emphasize to the child that the PACY investigation is strictly confidential and they should not discuss their evidence or other aspects of the investigation with anyone, except their support person;
- Explain that investigators may require witnesses to provide additional information in a follow-up interview(s). Therefore, the child may be interviewed more than once;
- Provide the child with a copy of PACY's "*What to Expect from an Investigation*" brochure; and
- After the interview, consider whether the child requires additional support services such as a child and youth counsellor, social worker or mental health practitioner.

References [Sample Summons, PACY Form 4](#)

[Confidentiality Undertaking, PACY Form 6](#)

["\*What to Expect from an Investigation\*" Brochure, PACY Form 7](#)



## Stage Three – Reporting

The third and final stage of the PACY investigation is the preparation and publication of the investigation report. PACY will prepare a public report summarizing its findings and recommendations. The public report will contain the name of the RSP, but not the names of any individuals such as children or staff members. Generally, before the investigation report is made available to the public, PACY will provide the RSP with a draft report, or a portion of the draft report, and the opportunity to consult and make representations respecting any adverse findings and/or recommendations within it.

### The Draft Report

Section 16.1(3) of the PACY Act requires PACY to provide an RSP with an opportunity to make representations regarding an adverse report or recommendation, either personally or through its legal counsel, prior to finalizing the report. Further, s.16.2(2) of the PACY Act provides that PACY must consult with an RSP, at the RSP's request, after making the investigation but before forming a final opinion. Thus, consistent with its statutory obligations, PACY generally provides an affected RSP with a copy of its draft investigation report, either in whole or in part, and considers any submissions made by the RSP with respect to the adverse parts of the draft report, including its recommendations.

PACY may disclose the names of staff members to the RSP in the draft report if necessary to carry out its recommendations.

The draft report provided to the RSP is not made public. The RSP will generally be given at least two weeks to submit its comments on the draft report. Upon request, PACY will also meet with the RSP to consult before finalizing the report. PACY may or may not revise the draft report based on the RSP's comments.

#### Tips We've Received a Copy of PACY's Draft Investigation Report:<sup>iv</sup>

- Carefully review the draft report and its recommendations in their entirety. The draft report may be shared with the RSP's legal counsel. We encourage RSPs to consult with their lawyer regarding any adverse findings and recommendations affecting them;
- Ensure that the draft report is factually accurate and considers all of the pertinent evidence;
- Consider whether the findings and recommendations contained in the draft report are within the scope of the matter which was investigated;
- Consider whether the recommendations made by PACY are consistent with its findings. That is, do the recommendations make sense in view of the investigative findings?;
- Think meaningfully about whether the RSP can realistically implement the recommendations made in the draft report;
- Note the names of any individuals inadvertently mentioned in the draft report;
- Determine whether written representations and/or a consultation with PACY is needed to suggest changes to the report. Consider engaging legal counsel to draft written submissions and/or attend the consultation with you; and



- Prepare for your meeting with PACY in order to ensure that your comments will be presented in a clear, concise, persuasive and organized manner.

## The Final Report

A final report will be issued by PACY after the RSP has been given an opportunity to consult and make representations. Every investigation is unique and therefore, PACY cannot give a definite timeframe for the completion of a report.

The final report is public. It will be published on PACY's website and on CanLII (a public online database of legal information).

PACY may request that an RSP to whom a recommendation is directed notify it of any steps which the RSP proposes to take in order to follow the recommendations. The RSP will have a final chance to revise its response to the report and submit a "Formal Response" to PACY. The Formal Response should detail the recommendations which the RSP intends to implement and how, and those recommendations which the RSP intends not to implement and the reasons for not implementing them.

If, within a reasonable time after the report is made, no adequate or appropriate action is taken by an RSP, after considering any comments made by the RSP in the Formal Response, PACY may:

- send a copy of the report and recommendations to the Premier; and
- after sending a copy of the report to the Premier, make such report to the Legislative Assembly on the matter as PACY thinks fit.

Note that any comments made by the RSP in the Formal Response will be attached when the report is sent to the Premier and Legislative Assembly.

During or after the investigation, PACY may also report any findings of misconduct on the part of an officer or staff member of the RSP to the appropriate authority, including police or that person's professional college or association.

### Tips We've Received A Copy of PACY's Final Investigation Report:<sup>lvi</sup>

- Carefully review the final report and its recommendations in their entirety with your legal counsel. Ensure that any changes which PACY indicated would be made to the draft report have been made in the final report;
- Develop an action plan in order to implement any recommendations made by PACY. The action plan should include the nature of the steps to be taken, who is in charge of implementing them, the target date for implementation of the actions and any follow-up with PACY in this regard;
- Review the action plan within a reasonable time, and periodically if necessary, to ensure that steps have been taken, and continue to be taken, to follow the recommendations



made by PACY;

- Consider whether implementing any of the recommendations will have adverse consequences for a staff member(s) and how they should be communicated to the staff member(s) and the union, if any;
- Be prepared to answer questions from children, families, staff and the media with respect to the report and its recommendations. Hire a public relations consultant if the situation warrants;
- Consider seeking the assistance of a lawyer with preparing a Formal Response, which will be appended to the final report if matters escalate to the Premier or Legislative Assembly. Your Final Response should not contain any individual identifying information; and
- Have an appropriate policy in place (including timelines) for the secure storage, retention and destruction of your PACY investigation file.





## **PART IV - SPECIAL CONSIDERATIONS FOR DIVERSE AND COMPLEX NEEDS GROUPS**

Given the diversity of children that RSPs serve, it is essential that organizations adopt an anti-oppressive framework to their complaints and investigation processes and their overall policy development. By providing an environment that supports equity and accessibility, RSPs demonstrate a commitment to the removal of structural and cultural barriers, increase dignity and a respect for human rights, and celebrate diversity.

The systems that RSPs serve children within must challenge the mainstream values of power and privilege and end the mistreatment of children based on identity. The policies adopted by RSPs must ensure cultural competency and that special considerations are implemented when working with marginalized groups.

Positive practices with all diverse groups embrace the following principles and practices:

- Avoiding an authoritarian communication style used by those in power;
- Understanding that different communication styles are used by different populations;
- Modifying documentation to reflect needs;
- Asking questions in a language and manner that is understandable;
- Turning conversations with children into learning opportunities;
- Ensuring barrier-free access to policies and documentation;
- Inclusion of a diversity advocate or connections that will support the child's placement;
- Avoiding technical workplace jargon when working with children and their families;
- Avoiding the assumption of group identity;
- Ensuring that the steps to making a complaint are small and easy to follow;
- Ensuring that complaints and concerns are examined through a trauma-informed lens; and
- Providing on-going staff training on special considerations regarding the diverse and complex needs of children.

The following sections are intended to be a guideline for RSPs when examining their policies and procedures specific to their complaint and investigation processes. We encourage RSPs to reflect upon the information provided and to stimulate discussions and ideas amongst staff members and stakeholders in order to critically analyze and create organizational practices that address oppression in their structure and culture as a whole.

### **Special Considerations for Children with Disabilities (cognitive, emotional, developmental)**

- Avoid the use of binary language such as good/bad, fit/unfit, safe/dangerous, and normal/abnormal;
- Use pictures and photographs (BoardMaker, PECS, etc.) where possible;
- Engage organizations that have an expertise in the different disabilities and ableism (e.g. Geneva Centre, Surry Place, etc.);



- Involve teachers and other special needs supports and resources to assist in meeting the child’s individual needs;
- Be mindful of behaviours as a method of communication – notice when behaviours change or if they are different around different people; and
- Where there is considerable material covered, recognize that the information can be abstract and must be distilled down to precise points that retain the same message.

### **Additional Resources for RSPs to Inform Policies and Procedures regarding Children with Disabilities**

- <https://beyondcompliance.ca/use-the-tool/>
- <http://www.algonquincollege.com/accessibility-resources/accessible-education-tools/creating-accessible-documents/>
- <http://www.brailleit.ca/>
- <http://www.chs.ca/book-ois-interpreter>
- <http://www.ohrc.on.ca/en/teaching-human-rights-ontario-guide-ontario-schools/appendix-1-glossary-human-rights-terms>
- <https://ccla.org/useful-links-and-resources-related-to-discrimination-on-the-basis-of-disability-or-mental-health/>

### **Special Considerations for Children Identifying As LGBT2SQ**

- Ensure all communication is provided in gender-neutral terms;
- Ensure the use of preferred pronouns;
- Be a safe space and have a declaration of such;
- Do not minimize concerns of malicious or harassing behaviours;
- Provide an ally or advocate for children in the complaint and investigation processes; and
- Do not “out” a child who is not already out; do not assume that because they have told you, that they are comfortable with others knowing.

### **Additional Resources for RSPs to Inform Policies and Procedures regarding Children Identifying as LGBT2SQ**

- Rights of LGBTI in Canada - <http://www.canada.pch.gc.ca/eng/1448633333972>
- Supporting Our Youth (SOY) - <http://soytoronto.org/>
- The Canadian Centre for Gender and Sexual Diversity - <http://ccgsd-ccdgs.org/>

### **Special Considerations for Cultural, Racial And Religious Diversity**

- Seek out a Multi-Cultural – Multi-Religion representative (MCMR Rep) of belonged children to consult with regarding day-to-day practice, dietary needs, holidays and celebrations, etc. The MCMR Rep can also be engaged to verify information and provide proper consultations



regarding the subjective and objective nature of a complaint from a cultural, racial or religious perspective;

- Culture should not be limited to the practices of individual ethnicities but also address the shared attitudes and practices of institutions, organizations and groups;
- Religious and spiritual accommodation involves making provision for the exercise of religious and conscientious rights as guaranteed by the *Canadian Charter of Rights and Freedoms*; and
- Religious belief is intensely personal and can easily vary from one individual to another and may fall anywhere on a continuum between strict orthodoxy and nominal adherence. There are over 31 active recognized world religions. Active involvement is not a requirement to having considerations made to accommodate the child.

### **Additional Resources for RSPs to Inform Policy and Procedures regarding Cultural, Racial and Religious Diversity**

- Achieving Cultural Competence in Residential Care - [http://www.children.gov.on.ca/htdocs/english/specialneeds/achieving\\_cultural\\_competence.aspx](http://www.children.gov.on.ca/htdocs/english/specialneeds/achieving_cultural_competence.aspx)
- Canadian Heritage - <https://www.canada.ca/en/services/culture/canadian-identity-society.html>
- Ontario Multifaith Council - <http://omc.ca/consultation-services/>
- Case for Diversity - [https://www.mentalhealthcommission.ca/sites/default/files/2016-10/case\\_for\\_diversity\\_oct\\_2016\\_eng.pdf](https://www.mentalhealthcommission.ca/sites/default/files/2016-10/case_for_diversity_oct_2016_eng.pdf)
- Taking action on health equity and diversity: Responding to the mental health needs of children, youth and families new to Canada – [www.policy\\_newcomer\\_cymh.pdf](http://www.policy_newcomer_cymh.pdf)

### **Special Considerations for Language Needs**

- Translate documentation and forms to different languages and culturally appropriate formats;
- Use an English as a second language teacher for assistance to ensure that both words and their meanings are comprehended;
- Use primary language and fewer words when talking to a child who has challenges with comprehension;
- Use technology to communicate;
- Use repetition without it being a burden;
- Be aware of your own and the child's non-verbal language and understand that the interpretation within one culture is not always the same interpretation in another; and
- Be aware of speech impairments – allow time for children to express themselves. Repeat information for clarification.



## Additional Resources for RSPs to Inform Policies and Procedures regarding Language Needs

- Ontario Human Rights Commission Policy on discrimination and language - [http://www.ohrc.on.ca/sites/default/files/attachments/Policy\\_on\\_discrimination\\_and\\_language.pdf](http://www.ohrc.on.ca/sites/default/files/attachments/Policy_on_discrimination_and_language.pdf)
- Supporting English Language Learners - <http://www.edu.gov.on.ca/eng/document/esleldprograms/guide.pdf>
- Working With Non-English-Speaking Families by Lisa Lee
- Special Needs Portfolio - <https://specialneedsportfolios00091252.weebly.com/non-english-speaking-background.html>
- Children and young people from non-English speaking backgrounds in out-of-home care in NSW  
[http://www.community.nsw.gov.au/data/assets/pdf\\_file/0008/319877/children\\_and\\_young\\_people\\_ohhc.pdf](http://www.community.nsw.gov.au/data/assets/pdf_file/0008/319877/children_and_young_people_ohhc.pdf)

## Special Considerations for First Nations, Inuit, and Métis Children

- A First Nations, Inuit or Métis representative is necessary for status, non-status, urban and out of province children. If there is no identified representative, it is considered best practice to seek out and include someone from a local Native Friendship Centre and ensure mandatory representation. This representative can advise the child *and* the placement;
- There must be inclusion of First Nations, Inuit or Métis communities and representative where permissions and notifications are identified on documentation;
- Be aware of the concept of collectivity and the cultural obligations to the First Nations, Inuit or Métis communities; and
- "Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards."<sup>vii</sup>

## Additional Resources for RSPs to Inform Policies and Practices regarding First Nations, Inuit and Métis Children

- Ontario Federation of Indigenous Friendship Centres - <http://www.ofifc.org/>
- List of Ontario First Nations Community - <http://fnp-ppn.aandc-aadnc.gc.ca/fnp/Main/Search/FNListGrid.aspx?lang=eng>
- Duty to Accommodate - <http://www.ohrc.on.ca/en/policy-preventing-discrimination-based-creed/9-duty-accommodate>
- A Child and Youth Care Approach to Working with Families - by Thom Garfat
- The Other Side of the Door - [http://www.oacas.org/wp-content/uploads/2015/09/2014nov\\_other\\_side\\_of\\_the\\_door.pdf](http://www.oacas.org/wp-content/uploads/2015/09/2014nov_other_side_of_the_door.pdf)



## Special Considerations for Children Who Are Deaf or Hard of Hearing

- Communicate with the child using an interpreter if necessary to understand the essence of what is being told to you;
- Provide technology to communicate to external agencies (i.e. TTY);
- Ensure that all communication is respectful - face the hearing impaired person and speak slowly and clearly, with hands away from face;
- Avoid noisy environments;
- Provide information in writing when possible;
- Repeat information as said, not as interpreted; and
- Do not assume intelligence is based on ability to communicate verbally.

### **Additional Resources for RSPs to Inform Policies and Procedures regarding Children who are Deaf or Hard of Hearing**

- Bob Rumball Centre for the Deaf - <http://www2.bobrumball.org/>
- Canadian Hearing Society – Understanding barriers to accessibility - <http://www.chs.ca/understanding-barriers-accessibility>

## Special Considerations for Children From Out of Province

- Be aware that the reference to terms in documentation and jargon can vary province to province. Adapt terms (i.e. CAS Worker) that are not cross provincial to ensure understanding of processes and permissions;
- Ensure any children from out of province are connected to a diversity representative. These children are at an additional disadvantage of needing to learn a different system of care and being away from what is familiar; and
- Be aware that without support and familiarity, children from different provinces may be fearful or have anxiety in making complaints as it may affect any stability in their placement or make them vulnerable to any perceived victimization.

### **Additional Resources for RSPs to Inform Policies and Procedures regarding Children from Out of Province**

- National Youth in Care Network - <https://www.youthincare.ca/youth-in-care-networks>
- Provincial/Territorial Protocol On Children, Youth and Families Moving Between Provinces and Territories - [http://cwrp.ca/sites/default/files/publications/en/pt\\_protocol\\_-\\_children\\_-\\_families.pdf](http://cwrp.ca/sites/default/files/publications/en/pt_protocol_-_children_-_families.pdf)
- Child Welfare League of Canada, Children in Care Canada - [http://www.nationalchildrensalliance.com/nca/pubs/2003/Children\\_in\\_Care\\_March\\_2003.pdf](http://www.nationalchildrensalliance.com/nca/pubs/2003/Children_in_Care_March_2003.pdf)



## Special Considerations for Complaint Handling

When a child has expressed a desire to make a complaint or to contact an external advocacy service, best practice should avoid the following responses:

- Avoiding or ignoring complainants;
- Being defensive or blaming others or the victim;
- Making assumptions about the complaint or complainant;
- Hurrying the child in their account;
- Passing the complainant from one staff member to another;
- Promising outcomes you cannot guarantee;
- Promising rewards for cooperation;
- Giving standard responses or offering standard solutions;
- Fighting with or interrupting the complainant;
- Getting caught up in irrelevant details;
- Engaging in unreasonable behaviour;
- Retaliating against the complainant (e.g. Blaming or accusing the complainant or treating them adversely);
- Needlessly or suddenly bombarding the complainant with endless questions, paperwork or intimidating forms;
- Interrogating or lecturing the complainant or questioning their motives;
- Underestimating the power of feelings in complaint handling;
- Making excuses for behaviour that is of concern to the complainant;
- Arranging for staff to come and relieve you from your ongoing meeting with the complainant, thereby cutting the meeting short;
- Displaying a negative attitude;
- Accepting abuse, threats or harassment – staff have rights, too;
- Taking complaints personally;
- Talking in negative terms to other staff or care recipients about complainants; and
- Forgetting that not all complaints can be resolved to the satisfaction of the complainant.<sup>lviii</sup>

## Special Considerations for Interviewing Children

Certain developmental considerations must be understood when a child is involved in an investigation and will be interviewed. The process itself can be intimidating and provoke anxiety. In order to ensure accurate responses, the interviewer must make adjustments to the setting and the interview style.

Factors that affect the accuracy of information from a child being interviewed include, without limitation: age; cognitive, emotional and social development; level of verbal development; memory of events; potential pressure exerted by others in the environment; perception of investigator as helpful or unhelpful; interview style and structure of questions; and personality.<sup>lix</sup>

The following methods and observances will assist in a more successful interview with a child.



## **Setting**

- A neutral location should be chosen that does not have a lot of distractions in the room or have other people coming and going;
- Avoid room set-ups that promote a power hierarchy between the child and the interviewer;
- Avoid rooms that offer uncomfortable sitting arrangements as a child can become fidgety; and
- Allow the child to get used to the room.

## **Rapport Building**

- Pay attention to anxiety, nervousness, fear and vulnerability demonstrated by the child;
- Introduce yourself, state what will happen throughout the interview, how to take a break if needed, etc.;
- Let the child know that "I don't know" is an acceptable response to a question, rather than a guess;
- Ask questions about the child that assists in building common grounds and demonstrates interest in the child;
- Try to stay at the child's physical level. If they are sitting on the floor, sit on the floor.
- Listen to the child's speech and use language and vocabulary which the child understands based on developmental level, not age;
- Control your own emotions, your tone of voice or any reaction to new or surprising information; and
- Avoid head nods and responses that *may* indicate agreement with what they are saying.

## **Information Gathering**

- Ask open-ended questions wherever possible;
- Offer an example of a truth and a lie to determine the child's understanding and let the child know you are only looking for information that is true;
- Ask one question with one thought in it at a time. Use simple words, short sentences and avoid double negatives;
- Do not offer the answer within the question;
- Use names and not pronouns;
- Be aware that children are literal;
- Pay attention to non-verbal behaviour that demonstrates that a child is uncomfortable, frightened, confused or bored;
- Encourage the child to continue a narrative by asking 'what happened next?'; and
- Ask specific or clarifying questions when the child is done speaking.<sup>ix</sup>



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- <sup>i</sup> SO 2007, c 9 [*PACY Act*].
- <sup>ii</sup> SO 2017, c 14, Schedule 1 [*CYFSA*].
- <sup>iii</sup> Office for Standards in Education, Children's Services and Skills, *Young People's Views on Complaints and Advocacy*, (2012), [www.rights4me.org](http://www.rights4me.org), p 9.
- <sup>iv</sup> *CYFSA*, *supra* note ii, s 18(1).
- <sup>v</sup> *CYFSA*, *supra* note ii, s 18(2).
- <sup>vi</sup> CARF International, *Child and Youth Services Standards Manual*, (Tucson: CARF, 2017) at 89, s1K3.
- <sup>vii</sup> *CYFSA*, *supra* note ii, s 9(b).
- <sup>viii</sup> *CYFSA*, *supra* note ii, s 18(2).
- <sup>ix</sup> Ministry of Community, Family and Children's Services, *Children's Residence Licensing Manual*, (Ontario: 2003) at 29.
- <sup>x</sup> *CYFSA*, *supra* note ii, s 18(3).
- <sup>xi</sup> *CYFSA*, *supra* note ii, s 18(3).
- <sup>xii</sup> Ontario Human Rights Commission, *A Policy Primer: Guide to Developing Human Rights Policies and Procedures*, (Toronto: Queen's Printer for Ontario, 2013), at 16-17.
- <sup>xiii</sup> *Ibid*.
- <sup>xiv</sup> *CYFSA*, *supra* note ii, s 18(4).
- <sup>xv</sup> *CYFSA*, *supra* note ii, s 19.
- <sup>xvi</sup> CARF International, *supra* note vi, at 89-90.
- <sup>xvii</sup> *CYFSA*, *supra* note ii, s 18(3).
- <sup>xviii</sup> Rubin and Thomlinson, *Human Resources Guide to Workplace Investigations* (Canada Law Book: Aurora, 2006) at 22.
- <sup>xix</sup> Ontario Human Rights Commission, *supra* note xii, at 16-17.
- <sup>xx</sup> *CYFSA*, *supra* note ii, s 125.
- <sup>xxi</sup> Rubin and Thomlinson, *supra* note xviii, at 27-29.
- <sup>xxii</sup> Rubin and Thomlinson, *supra* note xviii, at 30-34.
- <sup>xxiii</sup> Rubin and Thomlinson, *supra* note xviii, at 50-53; 69-70.
- <sup>xxiv</sup> Rubin and Thomlinson, *supra* note xviii, at 100-103.
- <sup>xxv</sup> Meric C Bloch, "Guide to Conducting Workplace Investigations", online: <[www.corporatecompliance.org](http://www.corporatecompliance.org)>.
- <sup>xxvi</sup> Rubin and Thomlinson, *supra* note xviii, at 136.
- <sup>xxvii</sup> Rubin and Thomlinson, *supra* note xviii, at 118-120; 137-138.
- <sup>xxviii</sup> *CYFSA*, *supra* note ii, s 18(4).
- <sup>xxix</sup> *PACY Act*, *supra* note i.
- <sup>xxx</sup> Office of the Provincial Advocate for Children and Youth, online: <[www.provincialadvocate.on.ca](http://www.provincialadvocate.on.ca)>.
- <sup>xxxi</sup> *PACY Act*, *supra* note i, s 15(4).
- <sup>xxxii</sup> *PACY Act*, *supra* note i, s 13.1(3).
- <sup>xxxiii</sup> *PACY Act*, *supra* note i, s 15(2).
- <sup>xxxiv</sup> *PACY Act*, *supra* note i, s 2(1).
- <sup>xxxv</sup> *PACY Act*, *supra* note i, s 3(1)(2).
- <sup>xxxvi</sup> *PACY Act*, *supra* note i, s 4(2).
- <sup>xxxvii</sup> *PACY Act*, *supra* note i, s 4(3).
- <sup>xxxviii</sup> *PACY Act*, *supra* note i, s 13.1(1).
- <sup>xxxix</sup> *PACY Act*, *supra* note i, s 13.1(2).
- <sup>xl</sup> *PACY Act*, *supra* note i, s 13.1(4).
- <sup>xli</sup> *PACY Act*, *supra* note i, s 16.4(2).
- <sup>xlii</sup> *PACY Act*, *supra* note i, s 15(3).
- <sup>xliiii</sup> *PACY Act*, *supra* note i, s 16(4.1).
- <sup>xliiv</sup> *PACY Act*, *supra* note i, s 16(5).
- <sup>xlv</sup> *PACY Act*, *supra* note i, s 16.1(1).
- <sup>xlvi</sup> *PACY Act*, *supra* note i, s 16.1(4).
- <sup>xlvii</sup> *PACY Act*, *supra* note i, s 16.1(5).
- <sup>xlviii</sup> *PACY Act*, *supra* note i, s 16.3(2).
- <sup>xlix</sup> *PACY Act*, *supra* note i, s 16.1(7).
- <sup>l</sup> *PACY Act*, *supra* note i, s 17(2).
- <sup>li</sup> *PACY Act*, *supra* note i, s 17(1).
- <sup>lii</sup> Pinto and Sim, *Responding to Investigations of the Office of the Provincial Advocate for Children and Youth: A Toolkit for Children's Aid Societies and Indigenous Child Well-being Societies*, March 28, 2017, at 6-10.
- <sup>liii</sup> Pinto and Sim, *supra* note lii, at 11-12.
- <sup>liv</sup> Pinto and Sim, *supra* note lii, at 12-13.
- <sup>lv</sup> Pinto and Sim, *supra* note lii, at 14.
- <sup>lvi</sup> Pinto and Sim, *supra* note lii, at 15.
- <sup>lvii</sup> Ontario Human Rights Commission, "United Nations Declaration on the Rights of Indigenous Peoples", online: <<http://www.ohrc.on.ca/en/policy-preventing-discrimination-based-creed/11-indigenous-spiritual-practices>>.
- <sup>lviii</sup> Australia Department of Health and Aging (2013). "Better Practice Guide to Complaint Handling in Aged Care Services", AU: Paper Based Publications. *On-line ISBN 978-1-74241-910-7*.
- <sup>lix</sup> Keller-Hamela, Maria (2005) "The Child Interview. Practice Guidelines: Nobody's Children Foundation", at 1-9, online: <[www.http://canee.net/files/The%20Child%20Interview.%20Practice%20Guidelines.pdf](http://canee.net/files/The%20Child%20Interview.%20Practice%20Guidelines.pdf)>.
- <sup>lx</sup> *Ibid*.





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## Complaint Policy and Procedures

Approved on [Date](#)

Updated on [Date](#)

### Purpose:

The purpose of [RSP]’s complaint policy and procedures is to ensure that concerns about the rights of children in our care are brought to our attention and dealt with appropriately.

[RSP] has written internal complaint procedures by which a child in care (or group of children), the child’s parent, or another person representing the child, can make a complaint to our organization about alleged violations of the rights of children in our care or conditions or limitations imposed on visitors.

### Scope:

A complaint can be defined as the written or verbally expressed dissatisfaction, disagreement or concern about the quality, appropriateness, delivery – including the lack of, or refusal of, delivery – of a service provided by [RSP] to a child or group of children, or decisions made by [RSP] which affect a child or children in its care. This can include, but is not limited to, complaints concerning:

1. Non-compliance with legislation;
2. Non-compliance with [RSP’s] policies; or
3. [RSP’s] practices.

When a complaint is received by [RSP] with respect to a child or children in its care, that complaint will be handled by us in accordance with our complaint policy and procedures. All complaints received by [RSP] will be treated with respect and taken seriously.

As part of the complaint process, [RSP] will seek to resolve the complaint. In most cases, [RSP] will first attempt to resolve the complaint through an informal review with the people involved. That is, [RSP] will meet with the persons involved to discuss their concerns and attempt to find a solution through understanding, mediation, consequences, physical changes and/or policy changes. Any complaint



## Form 1-A – Complaint Policy Purpose & Scope

that requires special considerations to achieve a resolution (for example, revisions to a policy), will require the direct involvement of [RSP]’s Director.

If the complaint cannot be resolved through an informal review, or an informal review is not appropriate because the complaint involves serious or systemic allegations, [RSP] may conduct a more formal investigation into the issue. Please refer to our Investigation Policy and Procedures.

However, if a complaint involves harm or abuse, or the threat of harm or abuse, to a child or children, [RSP] must immediately report the complaint and the information on which it is based to a Children’s Aid Society, PACY, police and/or to the MCYS through Serious/Enhanced Serious Occurrence reporting, as required. In these cases, [RSP] may be required to refrain from dealing with the complaint as it will be handled by the appropriate authorities.



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## Complaint Policy and Procedures

Approved on [Date](#)

Updated on [Date](#)

### Policy:

Children have a right to be informed about [RSP]'s written complaint procedures in a method and language suitable to their level of understanding.

[RSP]'s written complaint procedures will be explained to a child at the time of admission, at the 30-day Plan of Care Meeting and every six months thereafter, or whenever a child makes a complaint or requests the information.

### Procedures:

1. Each time [RSP] reviews its complaint procedures with a child, the child will be informed of the following:
  - the rights of children in care and their right to make a complaint to [RSP];
  - how to make a complaint to [RSP] and our process for dealing with complaints;
  - their right to have their complaint reviewed by the Minister of Children and Youth Services, if they are not satisfied with the outcome of our complaint process;
  - the existence of PACY and its role, that they may ask PACY for assistance in making a complaint to us or to the Minister of Children and Youth Services, and the contact information for PACY; and
  - the availability of community supports which the child may wish to involve for assistance (e.g. First Nations, Inuit or Métis communities, multi-cultural multi-religion (MCMR) representative).
2. [RSP] will ensure that a staff member who is knowledgeable about the complaint process communicates the above-noted information to the child. [RSP] will provide training to staff on children's rights, its complaint policy and procedures and available advocacy services, during their orientation upon hire, at their annual performance review and whenever changes are made to [RSP]'s complaint process.
3. When explaining our complaint procedures (as well as the information outlined above) to a child in our care, written materials and verbal



## Form 1-B - Informing Clients of Internal and External Complaint Procedure

explanations will be adapted by our staff to address special considerations such as a child's disability, language, diversity and/or cultural, cognitive, physical or developmental needs. Where necessary, the information will be provided in alternate forms such as iPads, language boards, translated materials, etc.

4. If a child has questions or requires clarification regarding our complaint process, a staff member of [RSP] will provide materials and explain the information in a different manner suitable to the child's level of understanding.
5. Our complaint policy and procedures will be made available through child-friendly leaflets, brochures and/or information posted on [RSP]'s website. These documents will be in a language or vocabulary suitable for the child's level of understanding and their special needs. For instance, the Complaint Handling Procedure Brochure may be suitable for certain children and outlines [RSP]'s internal complaint process, as well as contact information for PACY, the Ombudsman, the MPP and the child's First Nations, Inuit or Métis community or diversity representative (if any).
6. Information about PACY, including its contact information, will be posted in a central location of the residence so that the child can access advocacy information without requesting it from staff members.
7. [RSP] and its staff will readily and regularly communicate with the child to answer any questions about children's rights and/or complaints.

References: [Complaint Handling Procedure Brochure, Form 2.](#)

["How Do I Tell Someone": Brochure for Children, Form 3.](#)

["I Have a Concern": Complaint Form for Children, Form 4.](#)

[Complaint Form \(Youth/Professional/Staff/Parent\), Form 5.](#)



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## Complaint Policy and Procedures

Approved on [Date](#)

Updated on [Date](#)

### Policy:

[RSP]'s complaint procedures must be reviewed with the child's parent, guardian or other representative within 7 days of the child's placement, at the 30-day Plan of Care Meeting and every six months thereafter, or whenever the person makes a complaint or requests the information.

### Procedures:

1. Each time [RSP] reviews its complaint procedures with a child's parent, guardian or other representative, they will be informed of:
  - the rights of children in care and their right to make a complaint to [RSP];
  - how to make a complaint to [RSP] and our process for dealing with complaints;
  - their right to have their complaint reviewed by the Minister of Children and Youth Services, if they are not satisfied with the outcome of our complaint process;
  - the existence of PACY, its role and contact information; and
  - the availability of community supports which they may wish to involve to provide assistance (e.g. First Nations, Inuit or Métis communities, multi-cultural multi-religion (MCMR) representative).
2. [RSP] will provide written materials to the parent, guardian or representative regarding our internal complaint procedure, including the Complaint Handling Procedures Brochure. The Brochure identifies [RSP]'s internal complaint process, as well as contact information for PACY, the Ombudsman, the MPP and the child's First Nations, Inuit or Métis community or diversity representative (if any).
3. If the child's guardian or representative changes, [RSP] will review its complaint process with, and provide written material to, the new guardian or representative at the earliest possible opportunity.



## **Form 1-C - Informing Parents and Others of Internal Complaint Procedure**

4. [RSP] will respond to any questions regarding its complaint process and provide additional available information or materials (e.g. complaint forms, PACY information), as may be requested by the child's parent, guardian or representative.
5. [RSP] will provide translation or a translated copy of the Complaint Handling Procedure Brochure in French, if necessary.

References: [Complaint Handling Procedures Brochure, Form 2.](#)

[Complaint Form \(Youth/Professional/Staff/Parent\), Form 5.](#)



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## Complaint Policy and Procedures

Approved on [Date](#)

Updated on [Date](#)

### Policy:

[RSP] will request that a child and/or their parent, guardian or representative acknowledge in writing that our complaint process has been explained to them.

### Procedures:

1. Regular review (e.g. at admission, 30-day Plan of Care Meeting and every 6 months thereafter) of the complaint process with the child and/or the child's parent, guardian or other representative will be completed and documented by [RSP] using the Acknowledgement of Review of Complaints Process Form to be placed in the child's file.
2. Each time [RSP]'s internal complaint procedures have been reviewed with a child, and/or the child's parent, guardian or other representative and any questions have been answered, [RSP] will request that the person review and sign an Acknowledgement of Review of Complaint Process Form.
3. The Acknowledgement of Review of Complaint Process Form will note:
  - that written materials outlining our complaint procedures have been provided and explained;
  - that the person has been given an opportunity to ask questions regarding the information provided and any questions have been satisfactorily answered;
  - that [RSP] has provided contact information regarding PACY, the Ontario Ombudsman, the MPP, and the child's First Nations, Inuit or Métis community or diversity representative (if any);
  - any special circumstances which limit the child's understanding of the complaint process;
  - any special assistance required by a child to understand the complaint process that has been offered or provided; and
  - the person who is appointed as the child's advocate, if known.
4. The child and/or the parent, guardian or other representative will sign a separate Acknowledgment of Review of Complaint Process Form.



## **Form 1-D – Acknowledgment of Internal Complaint Procedure**

5. The staff member reviewing the complaints process with the child and/or their parent, guardian or other representative will also sign the Acknowledgement of Review of Complaint Process Form as [RSP]'s representative and place it in the child's file.

References: [Acknowledgment of Review of Complaint Process \(Professional/Representative\), Form 6.](#)

[Acknowledgment of Review of Complaint Process \(Child\), Form 7.](#)





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## Complaint Policy and Procedures

Approved on [Date](#)

Updated on [Date](#)

### Policy:

[RSP] is legally obliged to receive and attempt to resolve complaints regarding matters which relate to the rights of children in our care or to whom we are providing services. Complaints about the rights of children in our care will be accepted from a child or group of children, a child's parent or guardian, a staff member, or any other person representing the child.

### Procedures:

#### How to Make a Complaint

1. Any person wishing to make a complaint concerning the rights of a child in our care or to whom we are providing services, may make the complaint verbally (e.g. in person or over the telephone) or in writing (using one of our complaint forms, by e-mail or otherwise).
2. Complaints can be made in private to a program staff of [RSP], or in a group setting to program staff (for instance, during a residents' meeting or plan of care meeting) or at any time to another person who will express the complaint to [RSP] on the child's behalf.
3. If the complainant is a child, the child will be provided with any immediate assistance to ensure that they are not at any risk of harm.
4. If the complaint is made verbally, [RSP] may request that the complaint also be made in writing. Assistance will be given to a child who wishes to make a complaint with finding a support person to help them write out their concerns. We will use our child-friendly forms as needed.
5. If a complaint is received in writing, we will contact the complainant to acknowledge receipt of the complaint.
6. Complaint forms are available on [RSP]'s website or upon request, or can be accessed on PACY's website. All complaint forms will be easily accessible and barrier-free in order to avoid any delay resulting from waiting to obtain forms to proceed with making a complaint.



### Receipt of a Complaint

7. All complaints will be acknowledged in writing by [RSP] within 24 hours of receiving them.
8. A meeting will be offered to the complainant to explain our complaint process. We will provide the complainant with a brochure outlining our complaint process and explain the process to them. If the complainant is a child, we will explain the complaint process in a language suitable to their level of understanding.
9. At the meeting to discuss the complaint process, the [RSP] or one of its program staff will explain to the complainant:
  - our complaint process, including the right to be protected from retaliation;
  - the right to have their complaint reviewed by the Minister of Children and Youth Services, if they are not satisfied with the outcome of our complaint process;
  - the existence of PACY and its role, that they may ask PACY for assistance in making a complaint to us or to the Minister of Children and Youth Services, and the contact information for PACY; and
  - the availability of community supports which they may wish to involve for assistance (e.g. First Nations, Inuit or Métis communities, multi-cultural multi-religion (MCMR) representative).
10. [RSP] will provide contact information to the complainant for PACY, the Ontario Ombudsman, First Nations, Inuit or Métis representative or diversity representative (if any) and the Member of Provincial Parliament.
11. [RSP] will facilitate the child's contact with a [RSP] support staff, an advocate (e.g. PACY) or diversity representative to assist the child with continuing the complaint process.
12. [RSP] will notify the child's parent, guardian or other person having lawful custody of the child of the complaint and that the complaint process has been initiated.

### Review of the Complaint

13. Within 24 hours, [RSP] will initiate an informal review of the complaint unless an informal review is not appropriate given the seriousness or systemic nature of the allegations.
14. The informal review will consist of meeting separately with the affected parties and discussing possible resolutions with them. [RSP] will review any stated concerns with the parties to identify and understand the details of the complaint and to discuss any possible resolution, problem-solving, negotiation or change in practice. In order for [RSP] to complete an informal



review of the complaint, all persons involved must be willing to participate in these informal discussions with a view to resolving their issues.

15. After meeting with the persons involved, [RSP] will determine if there is a mutually agreed upon course of action that will improve the situation of concern. [RSP] may recommend and implement a resolution.
16. [RSP] will complete an informal review of a complaint and implement the resolution (if possible) within ten (10) business days of receipt of the complaint, or as otherwise may be agreed upon by the parties.

### Within Five (5) Business Days:

- A representative of [RSP] will meet with the parties to discuss the complaint and any possible resolution, negotiation or change in practice.
- [RSP] will arrange for an individual support person or diversity representative for any of the parties involved if requested.
- If possible, [RSP] will determine a mutually agreed upon course of action by any or all parties involved in order to attempt to improve the situation of concern.

### Within Ten (10) Business Days:

- [RSP] will initiate the implementation of the agreed upon resolution, if any.
- The outcome of the review will be shared with the parties involved.
- If the complaint is unresolved at this stage, [RSP] will review its formal investigation process, if the complaint will be investigated by [RSP]. Generally speaking, formal investigations will be a method of last resort for dealing with complaints. Please refer to our Investigation Policy and Procedures.
- [RSP] will reiterate to the complainant that they may request that their complaint be reviewed by the Minister for Children and Youth Services, or investigated by PACY. Contact information for PACY will be provided to the complainant.

### **Confidentiality**

17. Complaints received by [RSP] will be kept confidential and identifying information will not be disclosed, unless necessary to conduct a review or investigation into the complaint or as required by law.

### **Retaliation**

18. [RSP] prohibits retaliation (e.g. negative treatment, penalties or punishment) against any individual who reports a complaint or provides information regarding concerns about the rights of children in our care, including



reprisals against the child at issue or anyone participating in an [RSP]-initiated investigation into a complaint.

19. Any staff member or foster parent found to be engaging in or allowing another child to engage in retaliation will be subject to disciplinary action, up to and including termination of their services.
20. [RSP]'s protection against retaliation will be explained to the complainant when a complaint is received by us.

### **Duty to Report**

21. If the complaint triggers a mandatory reporting obligation (e.g. duty to report or serious/enhanced serious occurrence report), [RSP], its staff member or foster parent will immediately follow the appropriate reporting procedures. [RSP]'s complaint process may not be appropriate to deal with the complaint in such circumstances.
22. If a review of a complaint cannot be completed because the nature of the allegations triggered a duty to report and a child protection agency will be investigating the matter, the complainant will be advised of this fact.

### **Documented Complaints**

23. A copy of the written complaint will be placed in the child's file.
24. [RSP] will begin the process documenting the complaint for the purposes of tracking complaints and complete an annual review of complaints.
25. If the complaint is resolved informally, the outcome will be documented in the Complaint Outcome Form, to be placed in the child's file.

References: [Complaint Handling Procedures Brochure, Form 2](#)

["How Do I Tell Someone": Brochure for Children, Form 3](#)

["I Have a Concern": Complaint Form for Children, Form 4](#)

[Complaint Form \(Youth/Professional/Staff/Parent\), Form 5](#)

[Complaint Tracking Form, Form 8](#)

[Annual Review and Plan for Analysis of Complaints, Form 9](#)



Add Logo

## Complaint Policy and Procedures

Approved on [Date](#)

Updated on [Date](#)

### Policy:

[RSP] will ensure that complaints received through its internal complaint process are thoroughly and accurately documented. Documenting a complaint includes confirming that:

- concerns are recorded (e.g. in writing) whenever possible;
- all complaints are logged on the Complaint Tracking Form; and
- the [RSP]'s review and response to complaints is detailed in its Annual Review and Plan.

### Procedures:

#### Complaint Forms

1. [RSP] will keep a record of each complaint received, whether the complaint was written or verbal or otherwise, made through a group or in private setting or issued anonymously, or pursued through an informal or formal complaint process. Documenting a complaint should happen as close as possible to when the incident occurs so that the documentation is timely.
2. If a complaint is made verbally, [RSP] may request that the complainant make the complaint in writing. [RSP] will immediately provide the complainant with a complaint form in a format that suits their level of understanding and literacy ability.
3. [RSP] will accept complaint forms that are completed or partially completed and will not delay the review or investigation process due to incomplete complaint forms. [RSP] will either assist the child in completing the complaint form or promptly seek out a support person or representative to assist the child.
4. When transcribing a complaint from a child, [RSP] will document the information provided verbatim, and will not document their own judgements, assumptions or subjective interpretations of the information provided.



5. If the complaint is received through alternative methods (e.g. video, voice recording, pictures, etc.), [RSP] will provide the original complaint in the method it was submitted to the individual assigned to review or investigate the complaint, who will determine if transcription or additional information is necessary and how the complaint will be documented and stored.

### Complaint Tracking Form

1. All complaints regarding the alleged violation of children’s rights, non-compliance with legislation, or concerns regarding compliance with [RSP]’s policies or practices are to be documented in the Complaint Tracking Form by the person designated by [RSP] to handle the complaint.
2. The Complaint Tracking Form will record the type of complaint made, the issue(s), the persons involved, the requested remedy, the actions taken, the applicable policy and procedures, and the timeline taken to address the complaint.
3. The Complaint Tracking Form will be securely stored by [RSP] and accessible by designated staff only. Information recorded on the Complaint Tracking Form will be kept confidential, unless [RSP] is required by law to disclose the information.
4. The Complaint Tracking Form will be maintained for the purpose of identifying themes or patterns regarding complaints which may reveal issues with [RSP]’s services, practices or policies.
5. The Complaint Tracking Form will be used to inform the Annual Review and Plan in order to address issues where action and change need to occur to improve services and prevent repeat complaints.

### Annual Review and Plan

1. The purpose of the Annual Review and Plan is to demonstrate [RSP]’s commitment to monitoring the effectiveness of service delivery, quality control and use of resources, and to promote improvement in [RSP]’s services, practices and policies.
2. Annually, [RSP]’s management and staff will formally meet to review the Complaint Tracking Form for the purpose of identifying commonalities and trends. This will include a review of the number of complaints received, who made the complaints, the types of complaints, outcomes of complaints, advocacy services or community representatives involved, compliance with



## Form 1-F – Documenting a Complaint

timelines, recommended changes or resolutions, and the overall effectiveness of the complaint and investigation processes and outcomes.

3. Patterns and themes of complaints and resolutions from the previous year will be discussed in the context of legislation, best practices, and anti-oppressive practices.
4. As part of the Annual Review and Plan, [RSP] will identify and document areas needing performance improvement, and identify and document actions to be taken to address the improvements needed.
5. If the complaint is related to race, culture, religion, sexual orientation, gender identity, gender expression or some other ground of discrimination, the Annual Review and Plan should consider including an appropriate community representative in the review process.
6. A plan of action will be developed by [RSP] to ensure future compliance and improvement to services provided to children and their families. All plans of actions will be implemented, supervised and reviewed by a staff member(s) designated by [RSP].

References:    [“I Have a Concern”: Complaint Form for Children, Form 4](#)  
                  [Complaint Form \(Youth/Professional/Staff/Parent\), Form 5](#)  
                  [Complaint Tracking Form, Form 8](#)  
                  [Annual Review and Plan for Analysis of Complaints, Form 9](#)



Organization Name  
Contact Information

Form 2



supported



# COMPLAINT HANDLING PROCEDURE

Information for children, legal guardians, and other concerned individuals

respected

## Who Else Can I Contact?

You can talk to people at any of these agencies. They will:  
Provide you with information on your rights and responsibilities  
Help you make a complaint with your Residential Program  
Support you while you are going through the Complaint Process

CAS Worker  
Name: \_\_\_\_\_  
Email: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

Diversity Representative  
Name: \_\_\_\_\_  
Email: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

Provincial Advocate for Children and Youth  
Email: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

MPP  
Email: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

We can phone the  
**Provincial Advocate's Office**



with you on your behalf and with your permission, and tell them your concerns and arrange for you to speak with them.

valued

heard



## How Can I Express a Concern or Complaint?

Complaints can be made in person, in writing or by phone. You can also express a concern or complaint in private or through group/resident meetings, suggestion boxes or anonymously.

A Concern or Complaint can be handled **informally** (discussion of the concern to problem solve but not necessarily to have an investigation), or **formally** (written concern that will be investigated by your Residential Program or another outside agency that will look at a possible violation of policies and/or your rights).

## What if I Need Help in Expressing a Concern or Complaint?

Your Residential Placement can provide you with a support person to help you fill out any forms and assist you through the process. You can also request that information is adapted to meet your language and literacy need, disability, or physical, cognitive and sensory abilities. You can request a diversity representative to make sure services are consistent with your diversity needs.

## Confidentiality

During a review or investigation of your concern or complaint, the information you provide will be kept as confidential as it can be. However, some or all of the information may have to be told to others to be able to complete the review or investigation and/or to keep you, or others safe.

## What Happens After I Make a Complaint?

You will be notified within 5 days after the end of the complaint process of any recommendations or changes. At no time will you be given a consequence for expressing a concern. If you are not happy with the process or outcome, then you can notify your CAS worker, the MCYS, a diversity representative, your lawyer, the Provincial Advocates Office or MPP to follow up.



*Sometimes there are situations that we need to be concerned with, about the way you are being cared for. This is not 'being difficult'. Letting us know what might not be working gives us an opportunity to become aware of what is happening and improve how we take care of you.*

You can express a Concern or make a Complaint if:

- you *Disagree* with a service,
- you are *Dissatisfied* about a service,
- you are *Concerned* about the treatment you have received from another resident, a staff member or a community member,
- if you feel *Something Should be Provided* to you and it isn't, or
- if there is a problem or *Difference of Opinion* about your treatment plan.

## How do I make a Complaint or express a Concern?

### Step One

If you are comfortable, discuss the concern or complaint with someone you trust or the other person. See if you can agree on a solution.

### Step Two

Request the complaint form to fill out or get help from a person you choose to help fill it out. The completed form will be given to \_\_\_\_\_

*This person will look into your concern and provide you with information on the solution within \_\_\_\_\_ days.*

All complaints and resolutions will be documented. A copy will be sent to your CAS worker and a copy will be put in your file.

You can notify your CAS worker, their supervisor, MCYS, your diversity representative, your lawyer, the Provincial Advocates Office and/or your Member of Provincial Parliament at ANY time.

## What is a Complaint?

A complaint is telling someone you are unhappy or concerned about the way you are being treated or your experience while you are in a Residential Program. This can include, but is not limited to:

- Your rights are not being respected or met
- You think you're not being included in your planning and decision-making
- You are concerned about not getting a service you need
- You think you are being discriminated against because of your age, disability, gender, sexual orientation, race, beliefs, religion, language, or lifestyle
- Your safety is at risk in the Residential Program
- Your education, health care, diet or cultural practices are not being respected or followed

## Who Can Express a Concern or Complaint?

Anyone can express a concern or make a complaint if you are receiving or effected by the services of a Residential Program. This includes:

- Children living in the program.
- Family or representative of the child
- Staff or foster parents of the residential program.
- A person with an interest in the residential program - school, probation, doctors, etc.
- Community members and neighbors.

# How Do I Tell Someone if I Have a Problem?



## It's OK to Make a Complaint

Telling someone what might not be working and what worries you in your residential placement is a good thing.

We want you to talk with us about what is happening in your placement so that we can improve how we take care of you.

You can tell your Problem or Concern or make a Complaint to an adult if:

- You Disagree or are Not Happy with the way you are being taken care of,
- You're Worried about the way another person in your home - a kid or a staff - is treating you,
- You feel something should be provided to you and it isn't, or
- You want your staff or foster parent to help you solve your problem your way and not their way.

### How Do I Tell Someone I Have a Problem?

#### Step One

If you are comfortable, talk about the problem or complaint with someone you trust or the other person involved. See if you can solve the problem.

#### Step Two

Ask for a copy of the 'I Have a Concern Form' to fill out. You can ask for help from someone you choose to help fill the form out.

\*If you need more help, please ask for it \*

\*\* You can call the Provincial Advocate's Office at any time\*

When this form is done you can give it to:

**[Name of Complaints Handling Staff]**



[RSP name] will look into your concern and will get back to you about what is bothering you as soon as they talk to everyone involved. Any decision will be made with your involvement.

*All complaints and answers will be written down. A copy may be sent to your Child Welfare worker or their supervisor and a copy will be put in your file.*

# Who Can I Call if I Have a Problem in my Placement?

You can talk to people at any of these agencies.  
They will:



- Provide you with information on your rights and responsibilities
- Help you make a complaint with your Residential Program
- Support you while you are going through the Complaints Process

## Child Welfare Worker

Name: \_\_\_\_\_

Email and Phone Number: \_\_\_\_\_  
\_\_\_\_\_

## First Nations, Inuit or Métis Band, Council or MCMR Diversity Representative

Name: \_\_\_\_\_

Email and Phone Number: \_\_\_\_\_  
\_\_\_\_\_

Ombudsman (Email) \_\_\_\_\_

(Phone Number) \_\_\_\_\_

Provincial Advocate for Children and Youth (Email) \_\_\_\_\_

(Phone Number) \_\_\_\_\_

Member of Provincial Parliament (Email) \_\_\_\_\_

(Phone Number) \_\_\_\_\_

We can help you phone the Provincial Advocate's Office, or we can phone them with you, or on your behalf, with your permission and tell them your concerns and arrange for you to speak with them.

# I Have A Concern...

Form 4

*Confidential*

My Name: \_\_\_\_\_

Today's Date: \_\_\_\_\_



## My Concern

You don't have to answer all the questions. Do not guess. It's ok to leave a box empty.

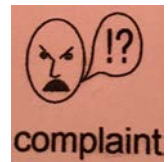
\*If you need more help, please ask for it. \*

\*\* You can call the Provincial Advocate's Office at any time at 1-800-263-2841 \*\*

When the form is done you can give it to:

[Name of Complaints Handling Staff]

## What are you unhappy about?



## When did it happen?



Month \_\_\_\_\_

Day \_\_\_\_\_



Morning



Lunchtime

Afternoon



Evening

Night



Bedtime

Where did it happen?



Who was involved?



How do you want this changed?



What has been done to try to change it?



How are you feeling about what has happened?

How are you feeling?



Happy



Joyful



Content



Silly



Sad



Angry



Scared



Worried



Confused



Surprised



Hurt



Embarrassed

Did someone help you fill this form out? If yes, who?





# COMPLAINT FORM

## Youth/Professional/Staff/Parent

You don't have to answer all the questions. Do not guess. It's ok to leave a box empty

\*If you need more help, please ask for it \*

\*\* You can call the Provincial Advocate's Office at any time at 1-800-263-2841\*\*

When the form is done you can give it to:

[Name of Complaints Handling Staff]

COMPLAINANT INFORMATION	
Date:	Program:
Your Name:	Contact Number:
Worker/Parent:	PACY Notified? <input type="checkbox"/> Yes <input type="checkbox"/> No

COMPLAINT INFORMATION	
<p><b>Summary of Complaint</b> – Please provide as much information/detail as you can remember                      If you are completing this on behalf of another person, please write verbatim as much as possible. If you need more space, you can attach another page(s).</p>	
What is your complaint about?	When did it happen?
Where did it happen?	Who was involved?
Describe how this incident impacted you and how it made you feel? (optional)	
What has been done to try to address the concern? (optional)	
How would you like to see your complaint or concern addressed?	
Did someone help you fill this form out? If yes, who <input type="checkbox"/> Yes <input type="checkbox"/> No	

SIGNATURES	
Signature of Person making complaint	
Signature of Staff receiving complaint	
Signature of Person helping fill out form	
Signature of Director	
Date form forwarded to Child Welfare Worker	<input type="checkbox"/> N/A



# ACKNOWLEDGEMENT of REVIEW of COMPLAINT PROCESS (Parent/Representative)

The Complaint Process must be provided to the child's parent/representative at the time of the child's admission (within 24 hours), or within 7 days of admission to a Residential Program.

We support every person's right to share compliments, feedback, concerns, or to make a complaint.

**If you have a concern, we want to hear from you.**

Open and timely communication is essential and beneficial to our ongoing relationship with you. We want to work with you to resolve concerns or complaints as a part of our commitment to providing quality service to children and their families.

**Attached is a copy of our Complaint Handling Procedure Brochure for you to review.**

I \_\_\_\_\_ from \_\_\_\_\_ (e.g. Children's Aid Society, First Nations, Inuit or Métis community, agency, parent, etc.), having legal guardianship of \_\_\_\_\_ (name of child), have been provided with the Complaint Procedure Handling Brochure for **[RSP]**.

I have had the opportunity to ask questions about the complaint process and **[RSP]** has answered my questions to my satisfaction. I know that I can speak with any of the following people about any questions, concerns, complaints and/or inquiries, or for help:

**[RSP]** Staff: \_\_\_\_\_ Contact: \_\_\_\_\_

Provincial Advocate (PACY) Contact: 1-800-263-2841

First Nations, Inuit or Métis or MCMR Rep: \_\_\_\_\_ Contact: \_\_\_\_\_

Ontario Ombudsman: \_\_\_\_\_ Contact: \_\_\_\_\_

Member of Provincial Parliament: \_\_\_\_\_ Contact: \_\_\_\_\_

I understand my obligation(s) as identified in the Duty to Report provisions of the CYFSA.

\_\_\_\_\_  
Signature of Parent/Representative Date

\_\_\_\_\_  
Staff Reviewing Complaint Procedures Date



# ACKNOWLEDGEMENT of REVIEW of the COMPLAINT PROCESS (Child)

The Complaint Process must be reviewed with a child at the time of admission (within 24 hours) to a Residential program, at the 30-day Plan of Care and every 6 months thereafter.

We support every person’s right to share compliments, feedback, concerns, or to make a complaint.

**Attached is a copy of our Complaint Handling Procedure Brochure for you to review.**

I \_\_\_\_\_ have been given a copy of the Complaint Handling Procedure Brochure for [RSP] and the complaint process has been explained to me. I have asked for the following special assistance to help me understand how and to whom to make a complaint or express a concern about my rights or how I am being taken care of:

\_\_\_\_\_

*(List any assistance requested)*

I have had the opportunity to ask questions about the complaint process and [RSP] has answered my questions so I understand. I know that I can speak with any of the following people about any questions, concerns, complaints and/or inquiries, or for help:

[RSP] Staff: \_\_\_\_\_ Contact: \_\_\_\_\_

Child Welfare Worker or Parent: \_\_\_\_\_ Contact: \_\_\_\_\_

Child Welfare Supervisor: \_\_\_\_\_ Contact: \_\_\_\_\_

Provincial Advocate (PACY) Contact: 1-800-263-2841

First Nations, Inuit or Métis or MCMR Rep: \_\_\_\_\_  
Contact: \_\_\_\_\_

Ontario Ombudsman: \_\_\_\_\_ Contact: \_\_\_\_\_

Member of Provincial Parliament: \_\_\_\_\_ Contact: \_\_\_\_\_





# ACKNOWLEDGEMENT of REVIEW of the COMPLAINT PROCESS (Child)

\_\_\_\_\_  
Signature of Child

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of [RSP] Staff

\_\_\_\_\_  
Date

The child has been able to explain their understanding of the complaint process to a staff member.

\_\_\_\_\_  
Staff Initials

Due to the following circumstances \_\_\_\_\_ the child's understanding of their rights or ability to participate in the complaint process cannot be confirmed at this time. The process has been explained to \_\_\_\_\_ **[name, role]** who will act as an advocate on the child's behalf.

\_\_\_\_\_  
Staff Initials

## Review of Complaint Process

*The Complaints Process must be reviewed with a child at the time of admission (within 24 hours) to a Residential Program, at the 30-day Plan of Care Meeting and every 6 months thereafter.*

DATE OF REVIEW	SIGNATURE OF CHILD	SIGNATURE OF STAFF



## COMPLAINT TRACKING FORM

*This document assists Residential Service Providers in tracking all complaints received to inform continuous improvement activities.*

Date received	Complainant Type	Complaint Issue	Persons Involved	Complaint Requested Remedy	Outcome/Action Taken	Policy / Procedures Affected	Date closed	Person's Notified	Further Action to Consider	Follow up with Complainant
21.2.12	Resident	Stolen property	Resident AJ Resident DK Staff RL	Items to be returned or replaced by DK or program	Room search completed, statements from all involved, Repayment of stolen items by DK Updated POC treatment plan	14.1 Rights and Responsibilities 15.3 Respect for others property	28.2.12	Notified CAS Worker and probation officer	Residents being able to go into other residents' rooms without permission	



*Confidential and  
Internal Use Only*

**ANNUAL REVIEW AND PLAN FOR [insert RSP here]  
[Insert date/year reviewed here]**

*To be completed and reviewed annually by staff team and applicable stakeholders and consultants.  
The purpose of the review is to identify necessary changes in agency policy and/or practice in order to improve services to children and their families.*

TYPES OF COMPLAINTS FROM LOG REVIEW- themes and patterns identified	RELATED POLICY/PROCEDURE	PLAN OF ACTION	TIMELINE FOR COMPLETION	EXTERNAL RESOURCES or REPRESENTATIVES ACCESSED/CONSULTED	VARIANCES OR CONCERNS FOR THE INVESTIGATIVE PROCESS COMPLETED

TYPES OF COMPLAINTS FROM LOG REVIEW- themes and patterns identified	RELATED POLICY/PROCEDURE	PLAN OF ACTION	TIMELINE FOR COMPLETION	EXTERNAL RESOURCES or REPRESENTATIVES ACCESSED/CONSULTED	VARIANCES OR CONCERNS FOR THE INVESTIGATIVE PROCESS COMPLETED

## DISCUSS

1. Trends and areas needing performance improvements
2. **Actions to be taken** to address the improvements needed.
3. **Actions taken** or changes made throughout the year to improve performance<sup>1</sup>

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<sup>1</sup> Child and Youth Services Standards Manual, CARF International, 2017

Add Logo

## Investigation Policy and Procedures

Approved on [Date](#)

Updated on [Date](#)

### Purpose:

[RSP] investigates complaints concerning the rights of children in our care which have been made through our internal complaint process and which cannot be resolved through an informal review, or if the informal review process is not appropriate based on the nature of the complaint.

The purpose of this Policy is to ensure that all investigations into complaints by [RSP] are conducted in a timely, fair, impartial, thorough and thoughtful manner, and in compliance with applicable policies and procedures.

### Scope:

This Policy and our investigation procedures apply to all formal investigations into complaints concerning the rights of children in our care, or conditions or limitations imposed on visitors, conducted by [RSP].

This Policy does not apply to informal reviews of complaints, in which complaints are discussed with the parties involved with the goal of resolving concerns through understanding, dialogue and mediation.

Formal investigations are intended to allow [RSP] to gather relevant information and documentation from the parties and any witnesses that will allow us to make findings regarding complaints and take corrective action if necessary to protect rights and improve service for children and their families.

A complaint about the rights of a child in our care will be investigated by [RSP] if the complaint cannot be resolved through an informal review, unless [RSP] is of the view that a formal investigation is not appropriate in the circumstances.

In some cases, [RSP] may engage an external investigator (i.e. someone who is not employed by our organization) to complete an investigation into the complaint.

If a complaint involves harm or abuse, or the threat of harm or abuse, to a child or children, [RSP] must immediately report the complaint and the information on which it is based to a Children's Aid Society, PACY, police and/or to the MCYS through Serious/Enhanced Serious Occurrence reporting, as required. In these cases, [RSP] may be required to refrain from investigating the complaint as it will be handled by the appropriate authorities.



Add Logo

## Investigation Policy and Procedures

Approved on [Date](#)

Updated on [Date](#)

### Policy:

Establishing a timeline for investigating complaints supports a proactive approach which helps ensure that concerns are addressed in a timely manner to prevent any violation or further violation of children’s rights, and to minimize any anxiety experienced by a complainant.

[RSP] will make all reasonable efforts to initiate an investigation into a complaint and conclude the investigation in a timely manner.

### Procedures:

1. If the complaint could not be resolved informally through a review, [RSP] will initiate a formal investigation into the complaint, unless [RSP] determines that a formal investigation is not appropriate in the circumstances.
2. [RSP] will begin a formal investigation into a complaint within [2] business days of the completion of the review, or within [2] business days of receipt of the complaint if a review is not appropriate given the nature of the complaint.
3. Complaint investigations will generally be completed within [28] business days of the receipt of the complaint. If additional time is required to complete the investigation due to factors such as the number of allegations, the availability of the parties or witnesses or other reasons, [RSP] will advise the parties of the additional time required to complete the investigation.

#### Within Ten (10) Business Days:

[RSP] will seek to resolve the complaint through an informal review of the complaint with the parties involved. Please refer to our Complaint Policy and Procedures Form 1-E.

#### Within Eleven (11) to Twenty-One (21) Business Days:

At this stage, the formal investigative process is initiated by [RSP].

- An investigator will be appointed by [RSP].
- The scope of the investigation will be determined by [RSP] and the investigator.



## Form 10-B – Investigation Timelines

- The parties and witness will be advised of the investigation and will be introduced to the investigator. [RSP] or the investigator will discuss the logistics of the interviews (dates, location, support persons, special accommodations) with the parties and witnesses.
- The investigator will begin a preliminary review of relevant documents including a copy of the written complaint, any incident reports (e.g. serious/enhanced serious occurrence reports, police reports), logs, personnel records, organizational policies, Ministry standards and other pertinent documents or policies that may apply to the situation.
- The investigator will interview the persons involved, including the complainant, respondent and any witnesses, in order to obtain their verbal or written statements with respect to the allegations made in the complaint. The investigator may need to meet with the parties and witnesses more than once in order to obtain all relevant information.
- The investigator will gather and review any additional relevant documents or physical evidence including (without limitation) records, reports, logs, emails, text messages, phone messages, pictures or graphic information, and so forth.
- The investigator will consult with the child's diversity representative or First Nations, Inuit or Métis community representative (if any) to ensure the information obtained through the investigation is an accurate representation of the child's diversity or cultural practices and needs.

### Within Twenty-Eight (28) Business Days:

- The investigator will complete a Complaint Outcome Form or a written investigation report (as appropriate). The report will summarize all relevant information and documentation gathered during the investigation, the investigator's findings including whether the complaint was substantiated or unsubstantiated, and any recommendations or corrective action to be taken by [RSP].
- The report will be provided to [RSP] or its designate to take appropriate action.
- A letter summarizing the outcome of the investigation will be provided to the parties involved (i.e., the complainant, the respondent and the child involved if not the complainant).
- If the complainant is satisfied with the outcome of the investigation, no further investigative action is necessary. If the complainant is not satisfied with the outcome or the recommendations, [RSP] will provide the complainant and/or their representative with the contact information for PACY, and explain the complaint can be reviewed by the Minister for Children and Youth Services or investigated by PACY.



Add Logo

## Investigation Policy and Procedures

Approved on [Date](#)

Updated on [Date](#)

### Policy:

[RSP] will take certain preliminary steps prior to interviewing the parties and witnesses as part of an investigation into a complaint. These steps will include appointing an investigator, determining the scope of the investigation and deciding on certain logistical matters regarding witness interviews.

### Procedures:

#### Selecting an Investigator

1. If a formal investigation into a complaint is to be initiated, [RSP] will appoint an investigator. The investigator may be someone from within the organization (e.g. manager, Executive Director or a member of senior management) or an external person who is trained on conducting investigations (e.g. a lawyer or consultant).
2. The person selected to conduct the investigation will be impartial and objective (e.g. someone who is not involved in the incident and has no interest in the outcome), have skills and experience in conducting investigations, and have the ability to conduct the investigation in a timely manner.
3. When selecting the investigator, [RSP] will give consideration to factors including, without limitation, the person's experience within the residential care sector, familiarity with applicable legislation and standards, and whether the investigator has specific qualifications or characteristics (e.g. gender, race) in order to be able to meaningfully communicate or relate to children from diverse backgrounds or who have complex needs.

#### Determining the Scope of the Investigation

4. The investigator, together with [RSP], will determine the scope of the investigation (i.e., the issues that are to be investigated) based on the allegations raised in the complaint.
5. [RSP] and the investigator will identify matters that are clearly outside of the scope of the investigation. For instance, if during the course of investigating, allegations arise which cause the investigator to be concerned that a child may be in need of protection, the investigation must stop and the





investigator must immediately report the complaint and the information on which it is based to a CAS.

6. [RSP] will clarify with the investigator whether it wishes the investigation to be a pure fact-finding activity or whether it also requires recommendations or a legal conclusion (only if the investigator is a lawyer) to be included in the investigator's report.

### **Logistics for Witness Interviews**

7. The investigator, in consultation with [RSP], will decide on logistical issues relating to witness interviews including:
  - the location(s) of the interviews;
  - the order, dates and times of the interviews;
  - the method by which the interviews will be recorded (e.g., handwritten notes, computer, audio-recording);
  - the availability of support persons such as a diversity representative or a First Nations, Inuit or Métis community representative; and
  - the need for any special accommodations (e.g., translator, interpreter).

### **Additional Preparations:**

8. The investigator will review:
  - the complaint and any underlying documents (e.g. personnel records, resident files, logs, notes, e-mails);
  - [RSP]'s policies which are applicable to the situation, including the complaint and investigation policies and procedures;
  - legislation and MCYS and/or accreditation standards which are applicable to the situation; and
  - the collective agreement (if any) to determine if it requires the union's participation in any part of the investigation.
9. The investigator will discuss with [RSP] whether any interim measures have been or will be put in place pending the completion of the investigation (e.g. transferring a staff person, reassigning supervisory relationships, suspending an employee with pay pending investigation, offering EAP services to staff members).
10. The investigator will begin drafting questions or identifying subject areas to be explored with the parties and witnesses.
11. The investigator will assess whether any assistance is needed to conduct the investigation (e.g., an IT professional to recover or repair computer files, someone to take handwritten or computer notes of the interviews).



12. [RSP] will prepare a letter to the parties and witnesses which explains that an investigation will be completed, introduces the investigator, and welcomes the parties and witnesses to involve a support person.
13. The investigator will follow-up with a letter, phone call or meeting with the parties and witnesses to confirm the date and location of their interview, their choice of support person (if any), and any special accommodations which they may require to participate in the interviews (e.g. translator).
14. The investigator will provide the parties and witnesses with a copy of any applicable policies.
15. The investigator will resolve any potential issues with the support person chosen by a party or witness. The investigator will ensure that any special accommodation which is required by a party or witness is made available during their interview.
16. The investigator will put protocols in place to ensure that the investigation file is safely stored, either physically or electronically, or both.
17. The investigator will document the planning of the investigation using the Investigation Plan.

References: [Sample Investigation Plan, Form 11](#)

[Sample Introductory Letter to the Complainant, Form 12](#)

[Sample Introductory Letter to the Respondent, Form 13](#)

[Sample Introductory Letter to Witness, Form 14](#)



Add Logo

## Investigation Policy and Procedures

Approved on [Date](#)

Updated on [Date](#)

### Policy:

It is the expectation of [\[RSP\]](#) that all staff members cooperate with the investigator and make themselves available for interviews, as required by the investigator.

The investigator will make reasonable efforts to interview any party or witness who is not a staff member of [\[RSP\]](#).

The investigator cannot compel a person to participate in the investigation. However, [\[RSP\]](#) may discipline a staff member who refuses to participate as a party or witness in the investigation, up to and including termination of their employment or services.

### Procedures:

#### Prior to Interview:

1. Preferably, interviews of parties and witnesses will be conducted in person. If that is not possible, interviews may be conducted over the phone. If the party or witness is unwilling or unavailable to participate in an interview in person or over the phone, the investigator may request that they provide a witness statement.
2. If the investigator is required to meet with a child as part of the investigation, [\[RSP\]](#) will inform the child or the child's representative, as appropriate, with respect to participating in the investigation. At that time, a child in care will be reminded, in a manner suitable to their understanding, of the existence and role of PACY, and how PACY may be contacted.
3. The investigator will confirm that any support persons are available to attend at the interview of a party or witness.
4. The investigator will confirm with the complainant if there are any additional allegations not contained in the complaint. The investigator will advise the complainant that a summary of their complaint will be provided to the respondent.



5. The respondent will be provided with a summary of the complaint before meeting with the investigator so that the respondent can fully respond to the allegations.

### **During the Interviews:**

6. The investigator will introduce himself or herself. The investigator will explain their role as a neutral investigator, the purpose of the investigation and the investigative process to follow.
7. The investigator will introduce and explain the role of anyone assisting in the interviews with taking notes, etc.
8. The investigator will give the person being interviewed and their support person an opportunity to ask questions about the investigative process, and will answer the questions.
9. The investigator will let the person being interviewed and their support person know that they can take a break at any time or resume the interview on a later date if they are not comfortable with proceeding.
10. The investigator will remind the person being interviewed of any available support persons or services, if they do not have a support person.
11. The investigator will review the importance of confidentiality in a manner which is understandable to the person being interviewed. The parties and witnesses will be told:
  - not to discuss the complaint or the investigation with anyone, except their support person;
  - that failing to maintain confidentiality may result in discipline of a staff member, up to and including termination of employment;
  - that the investigator will attempt to maintain the confidentiality of the information which the parties and witnesses provide. However, the investigator may be required to share this information with others involved in order to ensure a child's safety or to conduct the investigation;
  - that the investigator will be preparing a written report of the investigation which will be shared with senior management of [RSP]; and
  - that [RSP] may be required to disclose the investigation file and report if required by law (e.g. to PACY).
12. The investigator will explain that no one can be penalized or experience consequences for having participated in the investigation and that the person being interviewed should contact [RSP] if they experience any reprisals.
13. The investigator will emphasize the importance of making full and truthful disclosure during the interview.



14. The investigator will first meet with the complainant to discuss the complaint. Thereafter, the investigator will meet with the respondent and any witnesses.
15. The investigator will ensure that any relevant records will be available for review by the person being interviewed during the interview.
16. The investigator will make contemporaneous notes of the interview, including questions and answers.
17. Prior to concluding the interview, the investigator will ask the person being interviewed:
  - whether there are any supporting documents that the investigator should review;
  - if there is anyone else the investigator should speak to; and
  - if there is anything else the person would like the investigator to know.
18. After all questions have been asked, the investigator will request that the person being interviewed review the investigator's notes of their interview to correct any details and sign them for accuracy. If necessary, individuals will be given time to review the notes with their support person and confirm their accuracy within a reasonable time after the interview.
19. The investigator will advise the person being interviewed that they may be needed again for a follow-up interview in the near future.
20. The investigator will obtain contact information for the person being interviewed and ensure the person has the investigator's contact information.
21. The investigator will invite the person being interviewed to contact him or her if they recall any additional details.
22. Follow-up with the parties and witnesses regarding any outstanding information or documentation.

Reference: [Sample Witness Statement, Form 15](#)



Add Logo

## Investigation Policy and Procedures

Approved on [Date](#)

Updated on [Date](#)

### Policy:

The investigator appointed by [\[RSP\]](#) will endeavour to gather all documentation and other things relevant to the complaint.

Documentary or physical evidence can be collected from [\[RSP\]](#), the parties and witnesses, or third parties (e.g. records requested from a telephone service provider).

Documentary or physical evidence includes, but is not limited to:

- physical or electronic records (e.g. reports, logs, notes, files, calendar);
- e-mail communications;
- text messages;
- voicemail recordings;
- posts on social media (e.g. Facebook, Instagram, Twitter, blogs);
- internet history or searches;
- letters or cards;
- photographs;
- clothing;
- video or audio recordings; and
- information gathered from an inspection of the site when the alleged events took place.

### Procedures:

1. The investigator cannot compel an individual to surrender documents or things, or search their personal space or belongings (e.g. person, bedroom, cell phone, purse, locker).
2. The investigator may ask the parties and witnesses to produce the documents or things voluntarily, or to take their refusal to do so into consideration when analysing the evidence.
3. [\[RSP\]](#) can provide the investigator with documents or things in which its staff members and residents do not have a reasonable expectation of privacy and



## Form 10-E – Gathering and Preserving Documentary Evidence

are obtained in a manner consistent with [RSP]’s personal and room search policy.

4. It may be necessary for the investigator to use the assistance of a specialist (e.g. I.T. professional) to search databases or recover relevant electronic records.
5. The investigator will use best efforts to preserve the documents or things in their original form.
6. An original document (even if it is a copy made by the investigator) should not be marked or altered in any way.
7. The investigator will ensure that all original or copies of documents and things are stored securely in a physical or computer investigation file, or both.
8. The investigator will not authorize anyone to access the investigation file during the investigation, unless required by law.



Add Logo

## Investigation Policy and Procedures

Approved on [Date](#)

Updated on [Date](#)

### Policy:

After all of the evidence has been gathered from the parties and witnesses, including documents and things, the investigator will analyse the evidence and make findings of fact. The investigator will decide whether certain events or conduct are more likely than not to have occurred based on the evidence collected during the investigation.

The investigator's findings will be documented in the Complaint Outcome Form or in a formal investigation report, as requested by [\[RSP\]](#). A copy of the Complaint Outcome Form or formal investigation report will be provided to senior management of the [\[RSP\]](#) or their designate.

A summary of the investigator's findings and any recommendations or corrective action which is not confidential will be shared by [\[RSP\]](#) with the complainant and respondent, in writing.

### Procedures:

#### Formal Investigation Report

1. If a formal investigation report is prepared for [\[RSP\]](#), it will include the following:
  - A summary of the complaint;
  - A description of the scope of the investigation;
  - An overview of the investigative process, including the names of the witnesses, list of the documents and a timeline of steps taken;
  - An outline of any interim actions taken;
  - Information relating to the parties (e.g. their relationship to one another and [\[RSP\]](#));
  - Identification of the applicable legislation policies and/or standards;
  - A statement of the evidentiary standard (i.e., balance of probabilities);
  - A summary of the information collected from the parties, witnesses, documents or other evidence;





- The key factual findings made by the investigator and credibility determinations;
- Any issues that could not be resolved;
- Recommendations for corrective action, if any (if requested by the RSP);
- Date and signature of the investigator; and
- Exhibits (e.g., witness statements, documents).

### **Formal Investigation Reports and Complaint Outcome Forms**

2. The report should be organized in such a way that anyone reading it will understand it without having to look at other materials.
3. The names of individuals mentioned in the report (e.g., children) may be anonymized to protect their privacy.
4. The report must be written in a clear, neutral, respectful and professional manner.
5. The report must contain the investigator's determination as to whether the complaint (or specific allegations) is substantiated, unsubstantiated or inconclusive.
6. The report must be proofread for spelling, grammar, tense and punctuation before it is finalized.
7. The report will be marked "confidential" and securely stored and retained in the investigation file.
8. The report will remain the confidential property of [RSP] and is intended for internal use only (e.g., to inform Annual Review and Plan). No [RSP] staff shall improperly access the report or release it externally.
9. An investigation report and Complaint Outcome Form will not be provided to the complainant or respondent. Rather, [RSP] will provide the parties with a written summary of the investigation findings and any corrective action to be taken which is not confidential. This written communication to the parties will be placed in the child's file.

References: [Complaint Outcome Form, Form 16](#)

[Investigative Report Template, Form 17](#)



Add Logo

## Investigation Policy and Procedures

Approved on Date

Updated on Date

### Policy:

Based on the findings made by the investigator, [RSP] will decide whether a right, policy, standard or legal requirements has been violated. If a violation is found, [RSP] will determine the appropriate corrective action in the circumstances. Any corrective action to be taken which is not confidential will be shared in writing with the complainant and respondent.

### Procedures:

1. If the complaint is substantiated by the investigator, [RSP] will consider the resolution proposed by the complainant in determining the corrective action to be taken.
2. If the investigation was inconclusive, [RSP] may determine to implement corrective action in “good faith” and as a matter of best practices.
3. [RSP] will determine corrective action that is appropriate and proportionate to the allegations in the complaint which are substantiated (or inconclusive). Any corrective action will be consistent with applicable rights, policies, standards or legal requirements.
4. Corrective action may be reviewed with a diversity representative or representative from the child’s First Nations, Inuit or Métis community to ensure that it is fair and consistent with, or achievable in relation to meeting, a child’s diversity practices and needs.
5. If the complainant disagrees with the corrective action, [RSP] will meet with the complainant and their representative as soon as possible to review the corrective action and explore other options for corrective action. The complainant will be provided with information on how to proceed with a review of their complaint by the Minister of Children and Youth Services or an investigation by PACY.
6. If the complainant disagrees with the outcome of the investigation and/or corrective action, the disagreement will be noted in the child’s file, the Complaint Outcome Form and on the Complaint Tracking Form.
7. Corrective action to be taken by [RSP] may include, but is not limited to:



- an apology or explanation;
  - counselling for children or staff;
  - education and training for staff;
  - a verbal or written reprimand;
  - suspension of staff without pay;
  - transfer of staff to another position;
  - termination of staff's employment or services;
  - reassessment of a child's needs; and/or
  - changes to a policy or practice of [RSP].
8. [RSP] will designate a staff member(s) to promptly implement any corrective action and to regularly monitor its implementation.
9. [RSP] will follow-up with the complainant within a reasonable time to confirm that the corrective action has been implemented and to determine whether their concerns giving rise to the complaint have been adequately addressed or remedied.

References: [Investigation Outcome Letter to the Complainant, Form 18](#)

[Investigative Outcome Letter to the Respondent, Form 19](#)



Add Logo

## Investigation Policy and Procedures

Approved on [Date](#)

Updated on [Date](#)

### Policy:

Investigations conducted by, or on behalf of, [\[RSP\]](#) will be kept confidential and information will not be disclosed unless necessary to conduct the investigation or as required by law. The parties to a complaint (i.e., the complainant and respondent) and any witnesses will be advised of the confidentiality requirements under this Policy.

The investigation file, including the complaint, investigator's notes, witness statements, Investigation Plan, investigation report or Complaint Outcome Form, will only be accessible by staff members authorized by [\[RSP\]](#) or as required by law.

Any staff member who discloses confidential information about the complaint or its review or investigation, will be subject to disciplinary action up to and including termination of employment or services.

### Procedures:

1. At the outset of the complaint process and the investigation process, the complainant, respondent, witnesses and any support persons will be advised by [\[RSP\]](#) of their obligation to maintain the confidentiality of the complaint and any review or investigation of the complaint by [\[RSP\]](#).
2. [\[RSP\]](#) and the investigator will keep confidential any information gathered in the complaint review and investigation process to the extent possible. In certain circumstances, [\[RSP\]](#) or the investigator may be required to disclose information provided by a party or witness; for instance, if the information received must be reported under the Duty to Report, if a person is at risk of harm, if the disclosure is necessary to conduct the review or investigation or the disclosure is otherwise required by law.
3. The investigation file, including the written complaint, investigator's notes, witness statements, Investigation Plan and the investigation report or Complaint Outcome Form, will be marked "confidential" and securely stored and retained by [\[RSP\]](#).
4. The investigation file, including the written complaint, investigator's notes, witness statements, Investigation Plan and the investigation report or



Complaint Outcome Form, will remain the confidential property of [RSP] and is intended for internal use only (e.g., to inform the Annual Review and Plan). No [RSP] staff shall improperly access the investigation file or release it externally without the written permission of [RSP].

5. No part of the investigation file, including the investigation report or Complaint Outcome Form, will be provided to the complainant or respondent. Rather, [RSP] will provide the parties with a written summary of the investigation findings and any corrective action to be taken which is not confidential.
6. The names of individuals involved in a complaint will be anonymized in documents relating to a review or investigation of the complaint to protect the individual's privacy, including in the investigation report, Complaint Outcome Form, Complaint Tracking Form and Annual Review and Plan.



Add Logo

## Investigation Policy and Procedures

Approved on [Date](#)

Updated on [Date](#)

### Policy:

A complainant may request that their complaint be deferred or withdrawn at any point after it has been received by [RSP] and for any reason. For instance, a complainant may withdraw their complaint if they wish to pursue an external complaint process.

Where [RSP] receives a request from a complainant to defer or withdraw their complaint, it will arrange a meeting with the complainant to explore the reason for the request and to ensure that the request is not being made under duress, threat of harm or another form of reprisal.

[RSP] will have the discretion to accept or not accept a request to withdraw or defer a complaint. [RSP] may elect to review or investigate a complaint even if the complainant wishes to have it withdrawn or deferred. In exercising its discretion, [RSP] will complete a risk assessment to determine if there are any physical or mental health risks in not pursuing a review or investigation of the complaint.

Each request to defer or withdraw a complaint will be considered by [RSP] on a case-by-case basis.

### Procedures:

1. A request to defer or withdraw a complaint must be made by the complainant to [RSP] in writing, if possible. If the complainant is unable to make the request in writing, [RSP] will document the request, the reasons for the request and the reason why the request could not be made in writing by the complainant. This information will be documented in the Complaint Outcome Form.
2. [RSP] will meet with the complainant to discuss the reasons for their request. [RSP] will ensure that the request is not being made under duress, threat of harm or another form of reprisal.



## Form 10-I – Deferring or Withdrawing a Complaint

3. [RSP] will complete a risk assessment to determine if there are any potential physical or mental health risks to a child in not pursuing a review or investigation of the complaint.
4. If the request to defer or withdraw a complaint is made by a child, [RSP] will discuss the matter with the child's parent or representative prior to closing the file.
5. [RSP] will have the discretion to accept or not accept a request to withdraw or defer a complaint. [RSP] may elect to review or investigate a complaint even if the complainant wishes to have it withdrawn or deferred.
6. [RSP] will advise the complainant of its decision with respect to the request to withdraw or defer a complaint within two (2) business days of meeting with the complainant. The decision will be communicated to the complainant in a manner which is suitable to their level of understanding.
7. If a complaint has been deferred or withdrawn, [RSP] will document this outcome on the Complaint Outcome Form and Complaint Tracking Form.
8. A complainant may "reactivate" a complaint that has been deferred or withdrawn at any time by making a request, in writing where possible, to [RSP].



Add Logo

## Investigation Policy and Procedures

Approved on [Date](#)

Updated on [Date](#)

### Policy:

[RSP] will retain records with respect to its investigation into a complaint for the greater of a period of 20 years or the minimum retention period required by law, consistent with the Ministry of Child, Youth and Family Services licensing requirements.

No employee shall destroy or otherwise dispose of an investigation file, in whole or in part, without prior written approval from [RSP].

### Procedures:

1. The investigation file will be stored in facilities that are physically secure so as to maintain confidentiality and to protect against damage or loss.
2. The investigation file will be retained for the greater of a period of 20 years or the minimum retention period required by law.
3. If a complaint is being investigated by a third party (e.g., police, Coroner's Office, PACY), the underlying investigation file will be retained by [RSP] pending the completion of the external investigation(s) and any subsequent proceedings.
4. [RSP] will review the investigation file prior to any destruction of the file to determine whether the destruction should proceed.
5. The destruction of the investigation file must be conducted in a manner that ensures the maintenance of confidentiality.
6. A list or database of destroyed investigation files (and their contents) will be maintained by [RSP].





## INVESTIGATION PLAN

*To be completed by the person assigned to complete the investigation of the complaint. Completion of this document should begin prior to beginning any investigation.*

**Date:**

**Name of Complainant(s):**

**Name of Respondent(s):**

**Investigator Assigned:**

---

### I. Summary of Complaint

### II. Notification of Parties

	Date Letter Sent	Date of Initial Meeting
<b>Complainant(s):</b>		
<b>Respondent(s):</b>		
<b>Witness:</b>		
<b>Witness:</b>		
<b>Witness:</b>		
<b>First Nations, Inuit or Métis or MCMR Diversity Representative</b>		

### III. Interview Schedule

	Date and Time	Location
Complainant(s):		
Respondent(s):		
Witness:		
Witness:		
Witness:		

### IV. Is Consultation required with First Nations, Inuit or Métis or MCMR Representative to verify cultural or religious needs or information?

*{list key information}*

### V. Estimated Timeline for Completion of Investigation

The investigation should be completed by: \_\_\_\_\_

### VI. Questions for Complainant(s)

*{list key questions}*

### VII. Questions for Respondent(s)

*{list key questions}*

### VIII. Questions for Witnesses

*{list key questions}*

## IX. Relevant Documents

*{list key documents}*

## X. Relevant Policies

*{list applicable policies}*

## XI. List of Activities to be Performed

- Task: \_\_\_\_\_
- Person Responsible: \_\_\_\_\_
- Time Frame: \_\_\_\_\_

## XII. Communication Plan

Who will have access to case information: \_\_\_\_\_

Who will **not** have access to case information: \_\_\_\_\_

Summary Report to be provided to: \_\_\_\_\_

## XIII. Other Issues



[TO BE PLACED ON LETTERHEAD]

[Date]

Private & Confidential

Sent via [email, mail, in-person, etc.]

[Person's name]

[Person's address]

Dear [Name]:

Re: Complaint filed on [Date]

We have received your complaint involving allegations that [describe complaint]. We are taking your concerns seriously and will be investigating them. We have appointed [name and title of investigator] to investigate your complaint. A copy of our Complaint Handling Procedures Brochure is attached, for your information.

The first step is for [name of investigator] to meet with you to talk about the details of your complaint. A meeting with you has been scheduled to take place on [date] at [time] at [location], or at another time we arrange. When you meet with [name of investigator], you will be asked whether you think there is anyone else we should speak to who might have information about your complaint. At any time during your interview and the investigation, including filling out any forms, we can arrange for a person you trust and/or a cultural/diversity representative to assist you and provide support.

The second step is for [name of investigator] to have a meeting with the other people involved. We will do our best to keep your information confidential but there may be times when we have to tell others about the information we have talked about to make sure that you are safe, other residents are safe, or to get more information that helps us understand your complaint. We ask that you do not talk to other people (aside from your support person) about our conversations.

Anyone who we talk to about your complaint cannot get you into trouble or mistreat you for having talked with us. If this does happen, please tell us right away so that we can deal with it. You could also call the Provincial Advocate for Children and Youth at any time at 1-800-263-2841 so they can help you.

We want to work out the complaint as quickly as possible. Once we have all of the information, we will tell you what the outcome is and what (if anything) needs to be changed now and in the future. We want to know how you think your concerns can be fixed.

If you have any questions about what we will be doing, please let us know by contacting [insert contact information].<sup>1</sup>

Thank you.

[Insert name]

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<sup>1</sup> Rubin and Thomlinson, *Human Resources Guide to Workplace Investigations* (Canada Law Book: Aurora, 2006) at 197-199.



[TO BE PLACED ON LETTERHEAD]

[Date]

Private & Confidential

Sent via [email, mail, in-person, etc.]

[Person's name]

[Person's address]

Dear [Name]:

Re: Complaint filed on [Date]

[RSP] has received a complaint about you involving allegations that [describe complaint in detail]. If these allegations are true, then someone's rights have been affected. [Name and title of investigator] has been appointed to investigate this complaint. A copy of our Complaint Handling Procedure Brochure is attached, for your information.

[Name of investigator] will be meeting with you and others to talk about the complaint. [Name of investigator] will be contacting you soon to set up a meeting to discuss the complaint and your response (i.e. your side of the story). No decisions have been made yet and none will be made until after you have met with [name of investigator].

When you meet with [name of investigator], you will be asked if there is anyone else we should speak to who might have information which is important to the investigation.

At any time during your interview and the investigation, we can arrange for a person you trust and/or a cultural/diversity representative to assist you and provide support.

We will do our best to keep your information confidential but there may be times when we have to tell others about the information you have discussed with [name of investigator] to make sure that you are safe, other residents are safe, or to get more information that helps us understand the complaint. We ask that you do not talk to other people (aside from your support person) about our conversations.

Anyone who we talk to as part of the investigation cannot get into trouble or be mistreated for having talked with us. If this does happen to you, please tell us right away so that we can deal with it.

Once we have all of the information, we will tell you what the outcome of the complaint is and what (if anything) needs to be changed now and in the future. We want to know how you think the complaint should be handled by us.

If you have any questions about what we will be doing, please let us know by contacting [insert contact information].<sup>1</sup>

Thank you.

[Insert name]

---

<sup>1</sup> Rubin and Thomlinson, *Human Resources Guide to Workplace Investigations* (Canada Law Book: Aurora, 2006) at 201-203.



[TO BE PLACED ON LETTERHEAD]

[Date]

Private & Confidential

Sent via [email, mail, in-person, etc.]

[Person's name]

[Person's address]

Dear [Name]:

Re: Complaint filed on [Date]

We are writing to advise you that [RSP] has received a complaint that is being investigated. We have appointed [name and title of investigator] to investigate the complaint. A copy of our Complaint Handling Procedure Brochure is attached, for your information.

You are receiving this letter because we have been told that you are someone who has information relevant to the investigation. [Name of investigator] will be contacting you to arrange a meeting in order to discuss what you know about the complaint. During your meeting, please let [name of investigator] know if there is anyone else we should speak with that might have information relevant to the investigation.

The investigation into the complaint is confidential. We will do our best to keep your information confidential but there may be times that we have to tell others the information we have talked about to make sure that our residents are safe or to get the information that helps us understand the complaint. We ask that you do not talk to other people about our conversations.

Anyone who we talk to as part of the investigation cannot get into trouble or be mistreated for having talked with us. If this does happen to you, please tell us right away so that we can deal with it.

If you have any questions about what we will be doing, please let us know by contacting [insert contact information].<sup>1</sup>

Thank you.

[Insert name]

---

<sup>1</sup> Rubin and Thomlinson, *Human Resources Guide to Workplace Investigations* (Canada Law Book: Aurora, 2006) at 201-203.



WITNESS STATEMENT

Witness' Name: \_\_\_\_\_

Position/Role: \_\_\_\_\_

Contact Information: \_\_\_\_\_

Email: \_\_\_\_\_

Did someone help you fill this out? Name: \_\_\_\_\_

1. Description of Incident

Include as much information as possible. This includes:

- who is involved
• where it happened
• dates and times
• what happened
• whether you are aware of anyone else who this has happened to

Multiple horizontal lines for writing the incident description.

(Attach another page if you need more space)







## COMPLAINT OUTCOME FORM

*To be completed at the conclusion of the complaint review or investigation. This form is for internal agency files only.*

Checklist	Staff Member	Date
Complaint acknowledged		
Complaint reviewed informally		
Investigation of complaint completed (if any)		
Debrief of resolution/findings and recommendations with complainant(s)		
Debrief of resolution/findings and recommendations with respondent(s)		
Confirmation of recommendations with management		
External complaint process offered (e.g. PACY)		
Complaint entered into Complaint Tracking Form		
Follow-up with complainant(s) to check on the implementation of the recommendations		

### 1. Initial Receipt of Complaint

Date received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Staff member who received complaint: \_\_\_\_\_

Complaint Received

In Person

Email

Phone

Written

Advocate

Other

Complaint Form \_\_\_\_\_

Person(s) involved in handling complaint and role:

\_\_\_\_\_

First Nations, Inuit or Métis or MCMR Diversity Rep advised:

Name: \_\_\_\_\_ Date: \_\_\_\_\_

## 2. Details of Complaint

Complainant's name:

\_\_\_\_\_

Relationship to client:

\_\_\_\_\_

Complainant's contact information:

\_\_\_\_\_

Child involved (if not complainant):

\_\_\_\_\_

Summary of Complaint:

Outcome Sought by Complainant and/or Child:

## 3. Investigative Information

<b>Documents Examined</b>	<input type="checkbox"/> Child File	<input type="checkbox"/> Personnel File	<input type="checkbox"/> Email
	<input type="checkbox"/> Text message	<input type="checkbox"/> Daily Log	<input type="checkbox"/> Staff/Supervisor
	<input type="checkbox"/> Prior	<input type="checkbox"/> Other	<input type="checkbox"/> Notes
	<input type="checkbox"/> Complaints		

{list relevant documents}

### Interviews/Statements of Parties/Witnesses

1. Name, Position and Date

Interview Response

2 .Name, Position and Date

Interview Response

**3. Name, Position and Date**

Interview Response

**Review of Relevant Agency Policies and Ministry Standards**

{list applicable policies and standards}

**First Nations, Inuit or Métis or MCMR Diversity Rep Consulted and Information Provided**

**Any Unresolved Issues or Outstanding Information Needed**

**4. Findings and Conclusions**

Date resolved: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

- Complaint Substantiated
- Complaint Unsubstantiated
- Complaint Inconclusive
- Complaint Withdrawn or Deferred (include reasons)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Complaint Outcome Details**

Did Complainant agree with outcome?  Yes  No

**Action Taken**

**Recommendation for Changes to Policies /Procedures (where applicable)**

**Complaint referred to external agency?**

- CAS  MCYS  PACY
- First Nations, Inuit or Métis/Diversity Rep  Other \_\_\_\_\_

## 5. Complaint Closure and Follow Up

Date Complainant(s) informed of outcome: \_\_\_ / \_\_\_ / \_\_\_

*If Complainant(s) is not the child, date child is informed: \_\_\_ / \_\_\_ / \_\_\_*

Date Respondent(s) informed of outcome: \_\_\_ / \_\_\_ / \_\_\_

Complaint closed?  Yes  No

Date closed: \_\_\_ / \_\_\_ / \_\_\_

Complaint entered into Complaint Tracking Form?  Yes  No

## 6. Signatures

\_\_\_\_\_  
Signature of Person  
Completing Form

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Date



## Confidential Investigative Report

### I. Introduction and Scope of Investigation

### II. The Investigative Background

#### a. Witnesses and Evidence

The following individuals were interviewed:

Name of Witness	Title	Date of Interview

Witnesses were advised that they should not interfere with the investigation or attempt to influence other witnesses. Witnesses were also advised that they were subject to governing policies prohibiting retaliation or reprisal. Witness statements were not audio recorded. The investigation proceeded under the expectation that witnesses would answer truthfully. Where necessary, credibility determinations were made.<sup>1</sup>

#### b. Documents

Attachment	Document
1.	
2.	
3.	
4.	

<sup>1</sup> We considered and gave appropriate weight to information that might be considered to be hearsay in legal proceedings.

**c. Policies, Standards and Laws**

In this investigation, we were asked to make factual findings only. Therefore, we will not assess whether pertinent policies or laws have been violated.

**d. Evidentiary Standard**

To make a decision on the “balance of probabilities” means that the evidence on one side outweighs, or is more than, the evidence on the other side.

**e. Timeline**

The following chronicles the approximate dates and times of incidents relevant to the investigation, as reported by the Complainant.

<b>Timeline</b>		
<b>Date</b>	<b>Time</b>	<b>Description of Event</b>

**III. Factual Background**

**a. The Complainant**

**b. The Respondent**

**IV. The Allegations**

**a. The Complaint**

**b. The Respondent’s Response**

**c. Witness Statements**

## V. Analysis and Findings

I have made my findings of fact using the balance of probabilities standard. I did this by asking myself, based on the evidence obtained during the course of my investigation, what do I think is more likely to have occurred than not. This is a qualitative and not a quantitative standard.

{discuss findings}

Therefore, based on the above, it is found on a balance of probabilities that ● .

This concludes the investigation.

[Name of Investigator]



[TO BE PLACED ON LETTERHEAD]

[Date]

Private & Confidential

Sent via [email, mail, in-person, etc.]

[Person's name]

[Person's address]

Dear [Name]:

Re: Outcome of Complaint Investigation

We are writing to let you know the outcome of our investigation into your complaint.

We received your complaint on [date]. After meeting with you to talk about your concerns, we also met with [name of respondent] and certain witnesses. We reviewed all of the information and documents gathered in the investigation and have concluded that your complaint is [substantiated, unsubstantiated or inconclusive].

[Include if the complaint is substantiated]: As a result, we will be taking steps to make sure that your concerns do not happen again in the future. For reasons of confidentiality, we cannot tell you all of the steps that we will be taking but some of these steps include: [list actions that are not confidential]. We will follow-up with you about how you are feeling in the coming days.

If you are not happy with the outcome of our investigation, you can ask that your complaint be reviewed by the Minister of Children and Youth Services or investigated by PACY. You can call PACY to help you at any time at 1-800-263-2841.

If you have any questions or concerns about our investigation or its outcome, please let us know by contacting [insert contact information].<sup>1</sup>

Thank you for bringing your complaint to our attention.

[Insert name]

---

<sup>1</sup> Rubin and Thomlinson, *Human Resources Guide to Workplace Investigations* (Canada Law Book: Aurora, 2006) at 205 to 206.





[TO BE PLACED ON LETTERHEAD]

[Date]

Private & Confidential

Sent via [email, mail, in-person, etc.]

[Person's name]

[Person's address]

Dear [Name]:

Re: Outcome of Complaint Investigation

We are writing to let you know the outcome of our investigation into the complaint involving you which we received on [date].

After meeting with the complainant, we met with you and certain witnesses. We reviewed all of the information and documents gathered in the investigation and have concluded that the complaint is [substantiated, unsubstantiated or inconclusive].

[Include if the complaint is substantiated]: As a result, we will be taking steps to make sure that such a complaint does not happen again in the future. For reasons of confidentiality, we cannot tell you all of the steps that we will be taking but some of these steps include: [list actions that are not confidential].

If you have any questions or concerns about our investigation or its outcome, please let us know by contacting [insert contact information].<sup>1</sup>

Thank you.

[Insert name]

---

<sup>1</sup> Rubin and Thomlinson, *Human Resources Guide to Workplace Investigations* (Canada Law Book: Aurora, 2006) at 205 to 206.

**REQUEST FOR INVESTIGATION – CHILDREN'S RESIDENCE**

The Provincial Advocate for Children and Youth has the authority to investigate any matter that comes to his or her attention from any source that concerns a child or group of children and the services they receive from a residential licensee where a children's aid society is the placing agency.

**General Information**

This is a request for an investigation about something that involves me and I am a young person

This is a request for an investigation and I am the parent of a young person placed in a children's residence by a children's aid society

This is an request for an investigation and I am a person with information about a children's residence that accepts placements from a children's aid society

**A. DETAILS OF WHAT YOU WANT THE PROVINCIAL ADVOCATE TO INVESTIGATE**

What is your complaint about? (Describe your complaint in as much detail as possible)

- You may want to consider what someone did or said that caused you to make the complaint or what you think that person should have done or said;
- You may want to give details about when something happened, where something happened and who was involved in the situation that you are complaining about.

Attach more sheets if necessary.

**Provincial Advocate**  
*for Children & Youth*

---

**B. Please fill out this section if you are a young person**

Last Name	First Name	Middle Name
-----------	------------	-------------

Date of Birth (yyyy/mm/dd)	Band of Native Community (If applicable)
----------------------------	--

Address (Number and Street)	Suite/Unit/Apt.
-----------------------------	-----------------

City/Town	Province	Postal Code
-----------	----------	-------------

Telephone Number	Cellular Telephone Number	Email
------------------	---------------------------	-------

---

Social Media Contact Info

**C. IF YOU ARE ANYONE OTHER THAN A YOUNG PERSON RECEIVING SERVICES FROM A CHILDREN'S AID SOCIETY PLEASE FILL OUT THIS SECTION**

Last Name	First Name	Middle Name
Address (Number and Street)		Suite/Unit/Apt.
City/Town	Province	Postal Code
Telephone Number (Day)	Telephone Number (Evening)	Cellular Telephone Number

Email / Social Media Contact Information

**Information about the Child:**

Child's First Name	Child's Middle Name	Child's Last Name
Child's Date of Birth (yyyy/mm/dd)	Child's Band of Native Community (If applicable)	
Child's Address (Number and Street)		Suite/Unit/Apt.
City/Town	Province	Postal Code
Telephone Number	Cellular Telephone Number	Email

Social Media Contact Info

**Provincial Advocate**  
*for Children & Youth*

---

**D. What Children's Residence is your complaint about?**

Residence Name

Residence Address

Residence Telephone Number

Parent Company (if applicable)

**E. Which Children's Aid Society placed you in this residence?**

Children's Aid Society Name

Children's Aid Society Address

Children's Aid Society Telephone Number    Name of Worker

**Provincial Advocate**  
*for Children & Youth*

---

**F. Have you made a complaint about this situation to the children's residence in question?**

Yes    No

**G. What was the result of your complaint to the children's residence?**

---

**H. Have you made a complaint about this situation to the Ministry of Children and Youth Services?**

Yes    No

**I. What was the result of your complaint to the Ministry of Children and Youth Services?**

---

**J. Do you have a suggestion about how your concern could be resolved?**

---

---

Name (Please Print)

---

Signature

---

Date (yyyy/mm/dd)

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

*Office of the Provincial Advocate  
for Children and Youth*

*Bureau de l'intervenant provincial  
en faveur des enfants et des jeunes*

May 31, 2017

Ms. Rebecca ABCDEF  
Executive Director

**SENT ELECTRONICALLY**

Dear Ms. ABCDEF,

**Re: Our file number 2017-XX**

In accordance with s.17 (1) (a) of the *Provincial Advocate for Children and Youth Act, 2007*, I am writing to advise you of the intention of the Provincial Advocate to conduct an investigation pursuant to s 15 (2) of the Act.

The Advocate expects that the scope of the investigation will include XXXXXX

Investigators from the Investigative Unit will contact you shortly to obtain information and documents. We look forward to working in close consultation with you and your staff and would be happy to arrange an introductory briefing on the investigation at your convenience.

The Lead Investigator for this matter is XXXXXX and she can be reached at XXXXXXXX.

Thank you for your anticipated co-operation in this matter.

Yours Truly,

A handwritten signature in black ink, appearing to read 'Diana Cooke'.

Diana Cooke,  
Director of Investigation

---

INVESTIGATIVE UNIT

401 Bay Street, Suite 2010, PO Box 2, Toronto, Ontario M7A 0A6 Tel: (416) 325-5669 FAX: (416) 325-5681 Toll Free: 1-800-263-2841 TTY: (416) 325-2648  
401, rue Bay, bureau 2010, boîte postale 2, Toronto, Ontario M7A 0A6 Tél : (416) 325-5669 FAX: (416) 325-5681 Sans frais: 1-800-236-2841 ATS (416) 325-2648

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

*Office of the Provincial Advocate  
for Children and Youth*

*Bureau de l'intervenant provincial  
en faveur des enfants et des jeunes*

June 5, 2017

Ms.Rebecca ABCDEF  
Executive Director

SENT ELECTRONICALLY

Dear Ms. ABCDEF,

**Document Request #1**

**Re: Our file number 2017-XX**

Further to the Provincial Advocate's letter of notice dated May 31, 2017 indicating his intention to conduct an investigation into XXXX, I write to provide you with the initial list of information the Investigative Unit seeks to obtain from your agency.

We have identified documentation deemed relevant to the investigation, and hereby request non-redacted versions of the following, either via courier or in electronic format. The document request letter is attached as "Appendix A".

I would appreciate this information by June 23, 2017 at 4:30pm. This information can be sent electronically. Alternatively, our office will be happy to arrange courier services at your request.

Our request is made pursuant to subsection 16.1 (4) of the *Provincial Advocate for Children and Youth Act, 2007* which compels the furnishing of information and production of documents that, in the opinion of the Advocate, relate to any matter being investigated by the Advocate, and subsection 16.1 (5) which provides that such information and documents must be furnished and produced, respectively, when requested.

---

INVESTIGATIVE UNIT

401 Bay Street, Suite 2010, PO Box 2, Toronto, Ontario M7A 0A6 Tel: (416) 325-5669 FAX: (416) 325-5681 Toll Free: 1-800-263-2841 TTY: (416) 325-2648  
401, rue Bay, bureau 2010, boîte postale 2, Toronto, Ontario M7A 0A6 Tél : (416) 325-5669 FAX: (416) 325-5681 Sans frais: 1-800-236-2841 ATS (416) 325-2648



Section 16.1(4) and Section 16.1(5) of our governing legislation provide as follows:

**Compelling information or documents**

- (4) In carrying out his or her investigative function, the Advocate may require any officer, employee or member of any person or entity listed in subsection (3) or any other person or entity who, in the Advocate's opinion, is able to give information relating to any matter that is being investigated by the Advocate,
- (a) to furnish the information; and
  - (b) to produce any documents or things which, in the Advocate's opinion, relate to the matter and which may be in the possession or under the control of the person or entity. 2014, c. 13, Sched. 10, s. 9.

**Same, duty to furnish**

- (5) A person or entity referred to in subsection (4) shall furnish the information and produce the document or things to the Advocate when requested to do so. 2014, c. 13, Sched. 10, s. 9.

Also, Section 16.1(6) of our governing legislation allows us to serve a formal Summons which would require document production and attendance at our office to be examined under oath. In our phone conversation on June 1, 2017, you confirmed that you require a summons, which is attached to this letter.

In the event the documents are not received by June 23, 2017 enclosed is a summons that will require your attendance at our offices on June 26, 2017 at 10:00 a.m. to be examined under oath pursuant to section 16.1(6) of the Act. Provided we receive the documents by June 23, 2017 we will notify you that this summons has been cancelled.

It may become necessary to forward a further document request prior to the completion of our investigation. I anticipate your kind assistance with any subsequent requests and ask that you please ensure that all documentation, including but not limited to notes, records, reports, recordings, emails and text messages, are retrieved and kept secure by you until the completion of our investigation.

I wish to thank you and your colleagues for your co-operation, and look forward to continued communication and consultation throughout this investigation. Please feel free to contact me at 416-325-9781 if you have any questions.

The lead investigator XXXXX may also be reached at XXXX.

Yours Truly,



Diana Cooke,  
Director of Investigations

**APPENDIX A**

**DOCUMENT REQUEST #1 – June 5, 2017**

**Provincial Advocate for Children and Youth**

1. A copy of any and all documents pertaining to XXXXX
2. A copy of all correspondence and communication between XXXXX involving XXXXX
3. A copy of any and all occurrence reports, incident reports, log notes and supplementary occurrence reports received or prepared by XXXXXXXXX

DRAFT

**Provincial Advocate  
for Children & Youth**

**L'intervenant provincial  
en faveur des enfants & des jeunes**

**SUMMONS**

TO: Rebecca ABCDEFGH

Name

123 Sesame Street, Toronto ON M1B 2C3

Address

RE: Provincial Advocate for Children and Youth Investigation pursuant to subsection 15(2) of the *Provincial Advocate for Children and Youth Act, 2007*, S.O. 2007, c. 9, as amended (the "Act").

YOU ARE SUMMONED pursuant to subsection 16.1(6) of the Act to attend for an examination on oath or affirmation before an investigator in this proceeding, to give information relating to the Provincial Advocate's investigation on:

Whether Oscar the Grouch is really of the species "grouch"

2017-06-14 at 10:00

Date (yyy/mm/dd) Time

Office of the Provincial Advocate for Children and Youth

at 401 Bay Street Suite 2010, Toronto M7A 0A6

Place

YOU ARE REQUIRED TO BRING WITH YOU and produce at the proceeding the following documents and things, and to remain until your attendance is no longer required:

All documents identified in Document Request #1 dated May 10, 2017

ATTENDANCE MONEY for 1 day(s) of attendance is served with this summons, calculated in accordance with the Tariff A of the Rules of Civil Procedure, as follows:

1. Attendance allowance for each day of necessary attendance	\$50.00
2. Travel allowance, where the hearing or examination is held,	
(a) in a city or town in which the witness resides, \$3.00 for each day of necessary attendance;	
(b) within 300 kilometres of where the witness resides, 24¢ a kilometre each way between his or her residence and the place of hearing or examination;	
(c) more than 300 kilometres from where the witness resides, the minimum return air fare plus 24¢ a kilometre each way from his or her residence to the airport and from the airport to the place of hearing or examination.	

3. Overnight accommodation and meal allowance, where the witness resides elsewhere than the place of hearing or examination and is required to remain overnight, for each overnight stay	\$75.00
--	---------

If further attendance is required, you will be entitled to additional attendance money.

IF YOU FAIL TO ATTEND or to remain in attendance as required, or fail to produce the documents of things at the time and place specified, then pursuant to section 21.2 of the Act you may be prosecuted under the *Provincial Offences Act*, R.S.O. 1990, c. P.33 as amended and if found guilty of an offence, you may be liable to a fine of not more than \$1,000.00.

Section 21.2 of the Act provides as follows:

### Offences

21.2 (1) Every person commits an offence who without lawful justification or excuse,

(a) wilfully obstructs, hinders or resists the Advocate or any other person in the performance of his or her functions under this Act;

(b) refuses or wilfully fails to comply with any lawful requirement of the Advocate or any other person under this Act; or

(c) wilfully makes any false statement or misleads or attempts to mislead the Advocate or any other person in the exercise of his or her functions under this Act.

### Penalties

(2) Every person who commits an offence is liable on conviction to a fine of not more than \$1,000. 2014, c. 13, Sched. 10, s. 12.

  
Signature by or on behalf of the Provincial Advocate for Children and Youth

Dated at the City of Toronto, this 15 day of May, 2017

**Provincial Advocate  
for Children & Youth**

**L'intervenant provincial  
en faveur des enfants & des jeunes**

Certification of Production of Documents

I \_\_\_\_\_ (full name of person),

of the \_\_\_\_\_ (City, Town, etc.) of \_\_\_\_\_, Ontario

Position: \_\_\_\_\_ ( Executive Director, etc.) of

Organization: \_\_\_\_\_ (Ministry, Agency, etc.),

**CERTIFY:**

1. I have directed staff and employees of the above organization to conduct a diligent search of the paper-based and electronically-maintained documents in the possession, control or power of the above organization, and have made the necessary inquiries of other to inform myself in order to make this Certification.
2. To my knowledge, information and belief, all such documents as set out in the document request of the Office of the Provincial Advocate dated \_\_\_\_\_, that are in the possession, control or power of the above organization have been produced to the Office of the Provincial Advocate.
3. If at any time I learn that this Certification was based on incorrect or erroneous information, I will contact the Office of the Provincial Advocate forthwith with such new information.
4. If at any time I locate additional documents responsive to the document request, I will forthwith provide those documents to the Office of the Provincial Advocate.

Date \_\_\_\_\_

\_\_\_\_\_  
(Signature)

**Provincial Advocate  
for Children & Youth**

**L'intervenant provincial  
en faveur des enfants & des jeunes**

**CONFIDENTIALITY UNDERTAKING**  
REPRESENTATIVE, ADVISOR OR SUPPORT PERSON OF THE INTERVIEWEE

I, \_\_\_\_\_  
Please print full name of the representative, advisor or support person

\_\_\_\_\_  
Street address

\_\_\_\_\_  
City Province Postal Code

**confirm that:**

1. I understand that this is an interview of \_\_\_\_\_  
Name of the interviewee  
(the Interviewee) conducted by the Provincial Advocate for Children and Youth (the Advocate) in the course of an investigation under the *Provincial Advocate for Children and Youth Act, 2007* (the Investigation).
2. I am a representative, advisor, or support person of the Interviewee. I wish to attend this interview and do so with the consent of the Interviewee.
3. I understand that the Investigation is ongoing and that the interview that I wish to attend may relate to or involve highly personal information that must remain confidential.

**I accordingly undertake the following confidentiality obligations:**

4. The information discussed during, connected with, or arising from the interview in any way (Confidential Information) is to be kept strictly confidential.
5. Subject to paragraph 6, I will not disclose any Confidential Information to any person, including any person who may be interviewed as part of the Investigation without the written consent of the Advocate until the Advocate gives notice that the Investigation is complete.
6. This undertaking does not prevent me from disclosing Confidential Information to the administrative head or management of the institution affected by the Investigation, provided that:
  - (a) the disclosure will not directly or indirectly interfere with the Investigation; and
  - (b) any person receiving the Confidential Information undertakes not to make the information public, to disclose the information to any person who may be interviewed as part of the Investigation, or to otherwise do anything with the Confidential Information that may interfere with the Investigation.



## Do I have to cooperate with an investigation and what will happen to the information provided?

**A person who is asked to provide information or produce documents is required by law to do so.** A witness interviewed by the Advocate's Office has a number of legal protections. For example, any statements given by the witness **cannot be used against them** in a later proceeding, including a criminal trial.

You may be required to provide personal information during the course of an investigation, even if the information would otherwise be protected by privacy or other legislation. All documents must be provided without redactions of personal information.

Unless the Advocate's Office determines that it is necessary to include personal information in the investigative report, the Advocate's Office will generally keep personal information confidential. **The identity or any identifying information about the child will not be published in an investigative report.**

The Advocate's Office may be required to disclose information you provide if authorized or required by law, if there is a risk of harm, or if necessary for purposes of law enforcement.

The Advocate's Office may also refer any **misconduct** discovered in the course of an investigation to an appropriate authority. This referral applies to any officer or employee of the Ministry of Child and Youth Services, a children's aid society, a residential licensee, or another entity.



**For more information on the Investigative Unit, please visit our website at:**

[www.provincialadvocate.on.ca/investigations](http://www.provincialadvocate.on.ca/investigations)

**Or call us at:**

416-325-5669 (local) or at  
1-800-263-2841 (toll-free)

Provincial Advocate  
for Children & Youth

Provincial Advocate for Children and Youth - Investigative Unit  
401 Bay Street - Suite 2000  
Toronto, Ontario M7A 0A6

## WHAT TO EXPECT FROM AN INVESTIGATION

Office of the Provincial Advocate  
for Children and Youth  
(The Advocate's Office)

Provincial Advocate  
for Children & Youth



## Key Steps in the Investigation Process

### 1 Complaint or notice of circumstances

A young person or member of the public may come forward with a complaint, by contacting the Advocate's Office or the Investigative Unit. A matter requiring investigation may also come to the attention of the Advocate's Office through its other functions.

### 2 Intake and pre-investigation review

When the investigative Unit receives a request for an investigation, the complaint is reviewed and a decision is made whether or not to proceed based on the unit's mandate and jurisdiction. If the Investigative Unit receives a complaint and decides not to commence or continue an investigation, it will notify the person who filed the complaint.

### 3 Investigation notice

If the investigation proceeds, the Ministry of Child and Youth Services is contacted by the Director of investigations and subsequently notified of the Advocate's intention to investigate the matter. Other affected parties, i.e. a children's aid society or residential licensee, will also be notified by the Director of Investigations.

### 4 Investigation process

The Investigative Unit will then carry out an investigation of the matter, which generally includes: The Investigative Team meeting with the affected agency to discuss the investigation process and address preliminary questions.

Investigators reviewing the case and gathering documents and other information relevant to the investigation. Interviews are held with affected and/or concerned parties, and any others with knowledge of the issues.

The preparation of a draft report. If it is determined that the report or recommendations from an investigation will adversely affect a person or entities set out in the legislation, the Investigative Unit will give the affected party the opportunity to respond to the report or recommendations. A draft report may be shared or partially shared with affected parties for comment before it is finalized.

### 5 Publication of the final report

The final report is made public. The report will outline the reasons for the investigation, make recommendations, and may address other matters. The report will not contain any information which identifies a child or young person.

### 6 Progress reports

The Advocate may seek a progress report on its recommendations from affected agencies. Based on the information provided, the Advocate may decide whether to send a copy of the progress report to the Premier and Legislative Assembly.

## What is the Investigative Unit of the Advocate's Office?

The Advocate is an independent officer of the Ontario Legislative Assembly whose mandate includes conducting investigations and making recommendations to improve the services provided to children by a children's aid society or residential licensee.

The Investigative Unit of the Advocate's Office is responsible for investigations. The Investigative Unit may start an investigation in response to a complaint or to review an individual incident, or may investigate a systemic issue involving children's services.

More info on this may be found on our website:  
[www.provincialadvocate.on.ca/investigations](http://www.provincialadvocate.on.ca/investigations)

## What happens during an interview?

The Investigative Unit will generally carry out a recorded interview or a witness under oath. The interview recordings are the property of the Advocate's Office and will be stored securely.

The Investigative Unit may issue a summons or make arrangements for a voluntary interview, which will be carried out at the Advocate's Office or some other location.

You may be required to or may choose to bring documents with you to the interview. If you are required to bring documents, the investigative Unit will identify these documents in advance.

Interviews are carried out in private and are not open to the public. You are permitted to have a lawyer attend with you at the interview. If appropriate and arranged in advance, you may be permitted to have a support person attend, but not participate in, the interview.

## Your participation in the investigation process

If you have information that is relevant to the investigation, the Investigative Unit may require you to participate in the investigation by:

### 1. Providing information

You may be required to provide information to the Investigative Unit, in meetings and/or telephone calls.

### 3. Participating in an interview

You may be required to attend a private interview as a witness to give evidence under oath.

### 2. Producing documents

You may be required to identify and produce any documents in your possession that may relate to the investigation.



## APPENDIX A

### REGULATION OF RESIDENTIAL SERVICE PROVIDERS

Various pieces of provincial legislation protect the rights of children and regulate their care in residential care facilities. It is outside the scope of this Compliance Manual to provide a summary of the extensive legal framework governing the rights of children in care and the regulation of residential care facilities. However, the Compliance Manual does discuss certain statutes and regulatory documents in terms of their relevance to children's rights, complaints and investigations into services provided by RSPs to children. A brief overview of the legislative provisions and regulatory documents relevant to responding to internal complaints about children's rights and PACY investigations is provided in this Appendix.

#### ***Child, Youth and Family Services Act, 2017 (CYFSA)***

The *Child, Youth and Family Services Act, 2017* (formerly the *Child and Family Services Act*) directs many of the province's programs and services for children in care. Its paramount purpose is to promote the best interests, protection and well-being of children. As such, the legislation governs matters including the rights of children receiving services or who are in care, child protection, youth justice, secure treatment, residential licensing, First Nations, Inuit and Metis child and family services, and adoption within Ontario.

It is pursuant to the CYFSA that an RSP is required to establish a written procedure for hearing and dealing with complaints regarding the alleged violations of the rights of children in care. The complaint procedure must include a review of the complaint by the RSP in an effort to resolve it. As well, the complaint procedure must require that an RSP tell children in care that they may request assistance from PACY in making a complaint and requesting further review of the complaint beyond the RSP.

#### ***Public Sector and MPP Accountability and Transparency Act, 2014***

The *Public Sector and MPP Accountability and Transparency Act, 2014* (also known as Bill 8) amends the PACY Act to expand the mandate of PACY to conduct investigations and make recommendations to improve CAS services and services provided by an RSP where a CAS is the placing agency. Although Bill 8 was passed in December 2014, PACY's legislative authority to conduct investigations became effective as of March 1, 2016.

#### ***Provincial Advocate for Children and Youth Act, 2007***

The *Provincial Advocate for Children and Youth Act, 2007* establishes the Office of the Provincial Advocate for Children and Youth as an independent office of the Legislature. The main purpose of the legislation is to empower PACY to: provide an independent voice for children by partnering with them to bring issues forward; encourage communication and understanding between



children and families and those who provide them with services; educate children and their caregivers regarding the rights of children; and conduct investigations and make recommendations to improve CAS services and the services provided by RSPs where a CAS is the placing agency.

The PACY Act sets out the jurisdiction and powers regarding PACY's investigative function, as well as the rights and obligations of RSPs when faced with a PACY investigation.

## **United Nations Convention on the Rights of the Child**

The United Nations Convention on the Rights of the Child (CRC) is an international human rights treaty. The CRC affirms and describes the fundamental human rights of every person under 18 years of age. It is the most widely-ratified international human rights treaty in history. Canada ratified the CRC on December 13, 1991.

All governments that have ratified the CRC have a legal duty to implement and uphold the rights contained in the CRC's fifty-four (54) articles. These articles cover all aspects of a child's life, including civil, political, economic, social and cultural rights. There are four (4) articles in the CRC known as General Principles which inform all of the rights of children under the CRC. The General Principles are non-discrimination; best interests of the child; right to life, survival and development (governments must do their best to protect children from harm) and participation (children have the right to give their opinions in all matters that affect them and to have their voices heard).

In fulfilling its purpose and objectives, PACY is guided by the principles of the CRC.

## **Accreditation Standards**

Accreditation is a quality improvement program that provides official recognition and endorsement that an organization meets or exceeds pre-defined standards. While accreditation of an RSP is not mandatory, knowledge of, implementation of and compliance with accreditation standards can assist in optimizing the services that are provided to children and their families.

CARF Canada has developed standards specific to child and youth services with the intention of improving the services provided by RSPs and outcomes for persons served. CARF's standards specifically identify areas of compliance in an effort to ensure that the rights of children and youth are promoted and respected by RSPs through their policies, procedures, documentation and review.

CARF Canada's Accreditation Manual contains its standards for accreditation, including requirements for clear protocols related to formal complaints. Organizations must develop and implement a policy and written procedure by which persons served understand their rights and can formally complain to the organization if those rights are infringed. The accreditation standards also require organizations to track and complete an analysis of the complaints



received in order to assist them in identifying areas for improvement and implementing changes to better their services and enhance outcomes for persons served.

### **Ontario Child Protection Standards (2016)**

The Ontario Child Protection Standards are a mandatory framework within which child protection services are to be delivered by a CAS. The purpose of the Standards is to encourage high quality and responsive service delivery for children and families receiving child protection services from a CAS.

The Standards outline the expectations for a CAS when conducting child protection investigations in response to a referral (complaint) that a child may be in need of protection. The Standards include requirements for a CAS to investigate an RSP (referred to as a “community caregiver”) which is the subject of a report or information (i.e. a “referral”) that a child is or may be in need of protection. The Standards are supplemented by a Community Caregiver Reference which provides additional practice information for a CAS when it receives a complaint concerning a child in the care of an RSP.

Where a child protection investigation of an RSP occurs, the CAS is required to interview witnesses (e.g. the alleged victim(s), child witnesses, staff witnesses, the accused perpetrator) and examine the physical layout of the setting. In addition, the CAS may examine the RSP’s files and logs (e.g. daily logs, records of serious occurrences, child’s file), policies and procedures, staffing levels, staff training and qualifications, daily routine, programming and records of past complaints of abuse.



## APPENDIX B

### OVERVIEW OF MANDATORY REPORTING OBLIGATIONS

#### Duty to Report under the *Child, Youth and Family Services Act, 2017*

Section 125 of the CYFSA requires the public, including professionals who work with children, to immediately report any suspicion that a child is, or may be, in need of protection directly to a CAS. Section 125 sets out the circumstances in which a mandatory report must be made by a person to a CAS, including incidents of physical, sexual and emotional abuse, neglect, and risk of harm.

An RSP's internal complaints and investigation procedures must never replace the duty to report a child in need of protection. If, at any point during an internal complaint investigation, an RSP has reasonable grounds to suspect that a child is, or may be at risk of harm, it must promptly report the suspicion and the information upon which it is based to a CAS.

For more information on an RSP's duty to report, please see the brochure entitled "Reporting Child Abuse and Neglect: It's Your Duty" available on the MCYS website at [www.children.gov.on.ca](http://www.children.gov.on.ca).

#### Reporting Serious Occurrences

The *Serious and Enhanced Serious Occurrence Reporting Guidelines* were developed by MCYS and MCSS for use by service providers. These Guidelines describe the process and procedures for reporting occurrences, both serious and enhanced.

There are eight (8) categories of serious/enhanced serious occurrences which must be reported by an RSP to MCSS and/or MCYS. These categories include:

1. Death of a client which occurs while participating in a service;
2. Serious Injury to a client that occurs while participating in a service;
3. Alleged, witnessed or suspected abuse;
4. Any situation where a client is missing;
5. Disaster on the premises;
6. Complaint about the operational, physical or safety standards of the service that is considered serious by the service agency;



7. Complaint made by or about a client or any other serious/enhanced serious occurrence involving a person participating in a service that is considered by the service agency to be of a serious nature; and
8. Restraint of a client.

If an RSP receives a complaint from a child, or someone on their behalf, consideration must be given to whether the complaint constitutes a serious occurrence. Any complaint received by an RSP that is deemed to be a serious occurrence can continue to be investigated by the RSP but the incident must be reported in accordance with the *Serious and Enhanced Serious Occurrence Reporting Guidelines*.

### Reporting Death or Serious Bodily Harm to PACY

As of June 10, 2016, RSPs have a legal duty to report to PACY when a child or youth in care dies or suffers serious bodily harm. Specifically, section 18.1 of the PACY Act provides that every agency or service provider must inform PACY, in writing and without unreasonable delay, after it becomes aware of the death of or serious bodily harm incurred by a child or youth. This obligation to report applies in respect of all children and youth living in care, or where a child, youth or their family has sought or received services from a CAS within 12 months of the incident.

The information to be reported to PACY must include a summary of the circumstances surrounding the death or serious bodily harm. "Serious bodily harm" is defined as any harm or injury (whether physical or psychological) that is more than merely transient and trifling in nature and interferes in a substantial way with the health, comfort and well-being of a child or youth.

Serious bodily harm shall be presumed in cases of any physical or psychological injury resulting in service being provided to a child by a licensed medical practitioner and includes but is not limited to:

- All fractures to any bone including fracture of the nasal structure;
- All burns excluding burns that can be treated with basic First Aid;
- All incidents of self-harm that require hospital emergency care;
- Ingestion of medication(s) or other noxious substance(s) that requires medical care;
- Serious soft tissue damage including bruising, swelling, and complaints of pain sustained proximal to a physical restraint or physical altercation;
- Serious head injuries including concussions or concussion like symptoms;
- All allegations of sexual assault, sexual abuse and sexual exploitation; and
- Psychological harm. Where a young person witnesses or experiences an extraordinary acute event that is likely to cause psychological harm including but not limited to the following events; a house fire, violent events, serious accidents, this shall be considered serious bodily harm.



PACY has interpreted “without reasonable delay” to mean that it must be notified of a child’s death or serious bodily harm within 48 hours of the incident. PACY has developed a Notification of Death or Serious Bodily Harm Form which can be submitted using PACY’s online form system available on its website.

As well, when a child dies, or serious bodily harm occurs, while living in care, an RSP is obliged to inform the affected child or youth, or their family, about the existence of and contact information for PACY within 48 hours of the incident. RSPs must maintain internal records to demonstrate that they have complied with their legal obligation to notify children, youth and their families about the existence of PACY. PACY may request to examine these internal records at a later date as part of an individual or systemic investigation.

It is important to note that an RSP’s obligation to report the death of or serious bodily harm incurred by a child or youth to PACY does not affect its duty to report under s.125 of the CYFSA – both reporting requirements must be followed by an RSP.



## APPENDIX C

### RIGHTS OF CHILDREN IN CARE

Part II of the *Child, Youth and Family Services Act, 2017* stipulates certain rights for every child receiving services or care from an RSP. An RSP is mandated to respect and uphold the rights of children protected by the CYFSA. The application of these rights is not dependant on behaviour, cognitive ability or emotional well-being. These rights include, but are not limited to, the following:

#### *Rights of Children Receiving Services*

- To express their own views freely and safely about matters that affect them;
- To be engaged through an honest and respectful dialogue about how and why decisions affecting them are made and to have their views given due weight, in accordance with their age and maturity;
- To be consulted on the nature of the services provided or to be provided to them, to participate in decisions about the services provided or to be provided to them and to be advised of the decisions made in respect of those services;
- To raise concerns or recommend changes with respect to the services provided or to be provided to them without interference or fear of coercion, discrimination or reprisal and to receive a response to their concerns or recommended changes;
- To be informed, in language suitable to their understanding, of their rights;
- To be informed, in language suitable to their understanding, of the existence and role of PACY and of how PACY may be contacted;
- Not to have corporal punishment inflicted on them or permit corporal punishment to be inflicted on them in the course of the provision of a service to them;
- Not to be detained or permitted to be detained in locked premises in the course of the provision of a service to them, subject to limited exceptions prescribed by law;
- Not to use or permit the use of physical or mechanical restraints on a child or youth, except as authorized by law;

#### *Rights of Children in Care*

- To be heard in respect of decisions affecting them, including decisions with respect to:
  - treatment, education, training or work programs;
  - creed, community identity and cultural identity; and
  - placement in or discharge from a residential placement or transfer to another residential placement;
- Upon admission to a residential placement, and at regular intervals thereafter, or, where intervals are prescribed, at the prescribed intervals thereafter, to be informed, in language suitable to their understanding, of,
  - their rights;





- the service provider's complaints procedures and the further review of complaints available;
- their responsibilities while in placement; and
- the rules governing the day-to-day operation of residential care, including disciplinary procedures;
- To speak in private with, visit and receive visits from members of their family or extended family regularly;
- To, without unreasonable delay, speak in private with and receive visits from their lawyer, another person representing them (including PACY), the Ombudsman and a member of the Provincial Legislature or Parliament of Canada;
- To send and receive written communications that are not read, examined or censored by another person, subject to limited legal exceptions;
- To have reasonable privacy and possession of their own personal property;
- To receive instruction and participate in activities of their choice related to their creed, community identity and cultural identity (subject to requirements for parental consent);
- To a plan of care designed to meet their particular needs, which shall be prepared within 30 days of the child's admission to the residential placement;
- To participate in the development of their individual plan of care and in any changes made to it;
- To have access to food that is of good quality and appropriate for the child, including meals that are well balanced;
- To be provided with clothing that is of good quality and appropriate for the child, given their size and activities and prevailing weather conditions;
- To receive medical and dental care, at regular intervals and whenever required, in a community setting whenever possible (subject to requirements for parental consent);
- To receive an education that corresponds to their aptitudes and abilities, in a community setting whenever possible; and
- To participate in recreational, athletic and creative activities that are appropriate for their aptitudes and interests, in a community setting whenever possible.

RSPs have a duty to respect the rights of children set out in the CYFSA. This duty includes ensuring that children and their parents have an opportunity to be heard and represented when decisions affecting their interests are made, and to be heard when they have concerns about the services they are receiving. Thus, RSPs must ensure that complaints regarding alleged violations of the rights of children are heard and dealt with appropriately, in accordance with an established complaint procedure.



## APPENDIX D

### EXTERNAL COMPLAINT PROCESSES

A child in the care of an RSP may wish to raise concerns through processes in addition to, or instead of, the RSP's internal complaint procedure. This Appendix provides an overview of additional agencies from which a child or a person on their behalf may seek assistance with addressing their concerns.

#### PACY Advocates

As outlined in the PACY Act, the role of PACY includes advocating on behalf of children and youth who receive or are trying to access government services in the province's care system. These children or youth, or an adult on their behalf, may contact PACY to access its advocacy services.

In carrying out its advocacy functions, PACY may provide services to children and youth including, but not limited to:

- receiving and responding to complaints about RSPs;
- conducting reviews, whether in response to a complaint or on its own initiative;
- representing the views and preferences of children and youth to RSPs;
- using informal methods to resolve disputes between children or youth and RSPs;
- making reports as to the result of its review to the complainant;
- providing advice and making recommendations to RSPs;
- educating children in care, their families and staff of RSPs about the rights of children in care;
- communicating with children in care regarding complaints;
- where an investigative authority is conducting an investigation that involves a child in care, providing advocacy to the child or youth that does not interfere with the investigation;
- providing information to children and youth and their families on how to access services that are provided or funded under the CYFSA;
- engaging in systemic reviews on behalf of children and youth; and
- providing public education about the PACY Act and the role of PACY.

Although PACY Advocates may promote the views and preferences of concerned children and youth to an RSP, they may not provide legal advice or legal representation to them. Significantly, advocacy also does not include conducting investigations into matters concerning children or youth in care – this function is reserved exclusively for PACY's investigative unit.



## Complaints about Services Provided by a Children's Aid Society

Children in residential care and their families may have concerns about the services sought or received from a CAS. They have a right to make a complaint about a CAS by submitting a complaint directly to the CAS and/or to the Child and Family Services Review Board.

### Complaints to a CAS – Internal Complaints Review Panel

CASs have their own internal process for handling complaints through the Internal Complaints Review Panel (ICRP). Complaints about the services sought or received from a CAS can be made in writing by submitting them to the local CAS by delivery, mail, fax or e-mail.

The ICRP of a CAS consists of a small number of people who have not been directly involved in a child's case, including a senior manager and a person not employed by the CAS. The ICRP will meet with a complainant to discuss and better understand their concerns. Within 14 days after the meeting, the ICRP will send the complainant and the executive director of the CAS a written summary of the results of the meeting, including any agreed upon next steps.

If at any point during the complaint review process the complaint is resolved to the complainant's satisfaction, the ICRP will send the complainant a written confirmation of the resolution.

If an individual has complained to the CAS, they can also complain to the Child and Family Services Review Board (CFSRB), even if the CAS review process is still underway or if the review process is complete. As well, an individual can complain about the services of a CAS directly to the CFSRB without having to first go through the CAS' review process.

### Child and Family Services Review Board

The Child and Family Services Review Board is a tribunal which conducts reviews and hearings on a number of matters affecting children, youth and families in Ontario. Pursuant to the *Child, Youth and Family Services Act, 2017*, the CFSRB has the authority to review certain complaints related to services provided by a CAS.

Complaints to the CFSRB can be made by filing an *Application Regarding a Complaint about Services Sought or Received from a Children's Aid Society*.

Once an application has been filed, the CFSRB will send a copy of it to the CAS. Within 7 days, the CFSRB will decide whether the application is eligible for review and send a letter to the complainant with that decision.

If the application is eligible for review, the CFSRB will ask the CAS to respond to the application. The CAS must send its response to the complainant and the CFSRB within 10 days.



After reviewing the application and the response from the CAS, the CFSRB will either make a decision based on the written material or schedule a hearing. A hearing will be held not more than 60 days after the CFSRB decided that the application was eligible for review.

No more than 30 days after the hearing, the CFSRB will issue a written decision which will include a summary of the facts and reasons for the decision. Some possible decisions include granting the application, dismissing the application, ordering the CAS to respond to your complaint, ordering the CAS to provide detailed written reasons for a decision made by it, or ordering the CAS to consider the complaint through its internal complaints process.

## Professional Colleges and Associations

There are a number of organizations that can assist a child or their representative with addressing concerns about the professional misconduct of individuals employed by RSPs, assuming these individuals are registered or certified members of the particular professional association or college.

## Office of the Children's Lawyer

If a child or a person on their behalf has a concern about an RSP, their placing agency or their placement, they can seek to involve the Office of the Children's Lawyer to represent them in their concern or complaint.

In order to involve a representative from the Office of the Children's Lawyer, the child or their representative needs to speak with a Duty Counsel at a courthouse. Duty Counsel would then advocate to the presiding judge the reason and need to have a children's lawyer appointed to represent the child. If the judge believes there is sufficient reason to appoint a children's lawyer for a child, the judge will issue a court order to the Office of the Children's Lawyer. The child's lawyer can then represent and advocate for the child through the RSP's internal complaint procedure and/or any external complaint, investigation and resolution process.

## The Ontario Ombudsman

The Ontario Ombudsman is an independent service of the government that investigates complaints from the public regarding services that are funded by the provincial government.

According to the CYFSA, a child in care has the right to be made aware of, speak in private with and receive visits from the Ombudsman appointed under the *Ombudsman Act* and members of the Ombudsman's staff. However, the Ombudsman typically does not investigate complaints involving private businesses that are serving children in care, such as RSPs. The Ombudsman identifies that it typically has no authority over child welfare/child protection agencies or private operators in social services. The Ombudsman can make inquiries and potentially investigate RSP's which receive funding (per diem) directly from and have a service agreement with any Ministry to provide services to children, youth in transition and/or adults. This includes mental health, disabilities and complex needs placements. In these cases, the Ombudsman will accept



a complaint from the public regarding a privately operated RSP, obtain details about their concerns and then either make inquiries or involve an 'early resolution staff' to attempt to resolve the issues through compliance with the service agreement or the organization's own policies and processes. If the complaint involves child protection concerns, the Ombudsman will direct the complainant to pursue their complaint through the RSP's internal complaint process, PACY, a CAS or the Child and Family Services Review Board. If the complaint is in regards to a criminal act, the Ombudsman will refer the complainant, or report the complaint, directly to police.

For more information, refer to the Ombudsman's report:

'Nowhere to Turn' - <https://www.ombudsman.on.ca/Files/sitemedia/Documents/NTT-Final-EN-w-cover.pdf>

'Between a Rock and a Hard Place' - <https://www.ombudsman.on.ca/Files/sitemedia/Documents/Investigations/SORT%20Investigations/Between-a-Rock-and-a-Hard-Place-EN.pdf>

