

Ministry of  
Children and Family Development

**Policy Title: Complaints Process Policy**

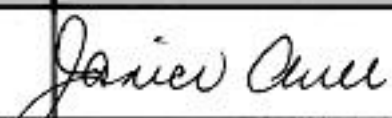


**Summary:**

This policy is a revision to the first version of the Complaints Process which came into effect on October 31, 1997.

This policy guides how ministry staff and our contracted service partners will review client complaints about decisions and actions.

The Complaints Process provides a non-statute specific, consistent, equitable and comprehensive mechanism for receiving and resolving client complaints.

**Effective Date: October 31, 2001**

RESPONSIBILITY AREA	SIGNATURE	DATE		
		YY	MM	DD
Director Originating Branch Corporate Policy		01	07	11
Assistant Deputy Minister Program Area Children's ePolicy Centre		01	07	12
Deputy Minister Ministry of Children and Family Development		01	07	13

**Effective October 31, 2001**  
**Corporate Policy**

**Ministry of Children and Family Development**  
**Complaints Process Policy**

**POLICY**

Guiding Philosophy

The ministry recognizes that quality assurance, accountability and openness are fundamental to our success. We are committed to the promotion of best practices and strive at all times for quality improvement.

To help achieve these goals, the ministry has created the Ministry of Children and Family Development Complaints Process. It is our professional commitment to our clients to hear and respond to client concerns in a fair, open and client-centred manner. The ministry will:

- provide our clients with quality service; and
- be open to reviewing our actions and decisions in order to provide the best practice to our clients.

Wherever possible the ministry seeks to prevent complaints by practicing:

- open and direct communication with clients and others; and
- a mutual or co-operative problem-solving approach which aims to achieve win-win situations.

Principles

There are 14 principles which are at the centre of the ministry's approach to the complaints process and resolution of any complaints: accessibility and information, accountability, child-centred, client-centred, consistency, culturally responsive and inclusive, entitlement, fairness, local resolution preferred, openness, responsive to the Aboriginal community, right to advocacy and support, safety, and timeliness (see Appendix 1: Complaints Process Principles).

Legislation

The ministry's complaints policy is a non-statute specific, consistent, equitable and comprehensive mechanism for receiving and resolving client complaints (see Appendix 3: Statutory Provisions Regarding Administrative Reviews).

## Bringing Forward a Concern

A *complaint or client concern*<sup>1</sup> may be expressed by clients (anyone who is receiving services or believes themselves eligible to receive services) or by others on behalf of clients. Whether a complaint is laid by the client or by another party on behalf of a client, the interests, expressed wishes and needs of the affected client(s) guide the complaints process. When the client is a child or youth, the complaint review process will be a child-centred process (see Appendix 4: Child Centred Reviews).

The complaint may be made in writing, verbally or by any other means, such as using an alternative communication device or using the assistance of an interpreter.

The ministry encourages and supports *complainants* to include advocates or support persons in the complaints process.

Most concerns, other than those before or decided by the courts, are *eligible matters for complaints*, and may be reviewed under the ministry's complaints process. There are some programs and services for which the ministry has created *specific protocols and/or complaints processes* for complaint resolution; where these exist, they will be utilized instead of the ministry's complaints process. It is presumed that any matter, unless *frivolous or vexatious*, is eligible for review unless otherwise specified in this policy or its appendices.

The complaints process does not alter or replace the *Child, Family and Community Service Act (CFCSA)* policy on reporting requirements related to a child in need of protection under s. 14 of the Act. If at any point during the course of a complaint review, any new information is provided that would constitute a child protection concern under the *CFCSA*, staff must report this information to the regional manager responsible for child protection.

## Informal and Formal Resolution

The stages of complaint review include: *informal* (local) resolution, and *formal* (regional) resolution. Complainants may also seek *independent reviews*.

It is expected that, wherever possible, complaints/client concerns will be resolved at the informal/local level. Ministry staff must, with the agreement of complainants and/or affected clients, attempt to resolve the concern locally, at the level at which the decision under review was made. The ministry will seek to bring a client concern to resolution within 30 working days or sooner. Local resolution includes: workers reviewing their initial decisions, supervisors reviewing the decisions of their workers, and the manager responsible for a given program area reviewing the decisions of their workers. When informal resolution is attempted, staff must also provide information on the formal complaints process to complainants.

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<sup>1</sup> **Italicized terms are explored in greater detail in Appendix 2: Guide to Interpretation**

A complainant may request a formal review at any point in time. Formal complaints are resolved regionally by a designated complaints reviewer. Any and all formal client complaints received by ministry staff must be referred to the designated complaint reviewer. Anyone requesting to make a formal complaint must be assisted to do so by ministry staff.

Designated complaint reviewers must not have a direct line of responsibility over the area, person or subject of the complaint.

The designated complaint reviewer is responsible for ensuring that complaints are fully investigated and ensuring that the principles of *administrative fairness and natural justice* have been upheld. They will consider the ministry's actions and decisions to determine whether clients have been treated fairly in the application of legislation, regulations and/or policy. They may also look to whether procedures or standards have been properly followed and decisions fairly made and communicated.

When a complaint raises matters of clinical practice, the designated complaint reviewer will then work with and involve the regional operational manager on those matters. Operational managers are responsible for considering practice and clinical issues and changing any clinical decisions if necessary. In some cases, staff at headquarters with technical/professional expertise or program responsibility may also review clinical and/or practice issues, either separately from or in conjunction with the regional complaints process.

If an operational manager has previously been seized with review of the clinical matter raised in the complaint the clinical issue in question shall not be referred solely to that operational manager for review.<sup>2</sup> In such situations the designated complaints reviewer identify staff, with appropriate clinical expertise, who have not previously had responsibility for the matter at hand, to work in cooperation with the designated complaints reviewer and the operational manager in collaborative review of any clinical issues.

Formal complaint reviews are expected to be completed within a 30 working day timeline starting when the designated complaints reviewer receives an eligible, formal complaint from the complainant in writing or verbally. Generally complaints are investigated in the order that they are received but under some circumstances, such as where there may be risks to health and safety, complaints may be *prioritized*.

When reviewing the complaint, the designated complaint reviewer balances a variety of *factors to consider in reviewing a complaint* including among others: the views of involved parties; the principles of administrative fairness and natural justice; and applicable standards, policy, regulation and legislation, and available resources.

Designated complaints reviewers will provide written *notification* to complainants of both the acceptance of their complaint and the final resolution of their complaint. If a complaint

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<sup>2</sup> An example of such a situation occurs when an operational manager has previously reviewed the clinical matter during earlier attempts at informal resolution.

is suspended or discontinued during the review process, the designated complaint reviewer must provide information on independent review mechanisms. The designated complaints reviewer will ensure that, if the complainant requires assistance with written communication, the decision and information is also communicated to the complainant by other appropriate means.

### Role of Staff

All ministry staff should familiarize themselves with the complaints process and their respective roles.

Employees may not make complaints on behalf of clients<sup>3</sup>. They may bring concerns about client service to their supervisors or progressively senior staff. They may encourage and aid clients, their families and/or caregivers in utilizing the complaints process and/or in seeking an advocate or other supports.

### Contracted Services

Contractors from whom the ministry purchases services must be guided by the ministry's complaints policy and the client dispute mechanisms outlined in relevant accreditation standards. Contractors dispute mechanisms must meet or exceed the standard of the ministry's complaints process. Contractor compliance with the ministry's complaints policy will be included in the ministry's standard contracts. Contractors must ensure that their clients have access to information about any complaints procedures they have, as well as the ministry's complaints process.

Contractors may not make complaints relating to specific services they are contracted to deliver. They may bring concerns about client service to the attention of appropriate ministry staff and may encourage and aid clients in utilizing the ministry's complaints process and/or in seeking an advocate or other supports. They may advocate for any clients in respect to services they are not contracted to deliver.

Generally, in accordance with the principle of local resolution, contractors shall attempt to resolve any client concerns about their services brought to their attention. If the contractor is not able to resolve the concern with the complainant, the complaint must be referred to the region's designated complaint reviewer for further review. Complainants who have not attempted local resolution with a contractor prior to contacting the designated complaints reviewer will be encouraged to attempt local resolution with the contractor before making a formal complaint.

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<sup>3</sup> If employees are concerned about services to a child or youth they may contact the Child, Youth and Family Advocate and/or Children's Commission with their concerns. Specific protection from retribution is provided under Section 101(1) of the *Child, Family and Community Service Act*. Employees concerned about services to an adult with a developmental disability may contact the Advocate for Service Quality for People with Developmental Disabilities.

A complaint about a contracted service will be immediately forwarded to the ministry for review under the following circumstances:

- the complaint involves a breach or violation of an explicit legislated right (such as those under s. 70 of the *CFCSA*, or s. 11 of the *Young Offenders Act*);
- the complainant requests a formal review or that the ministry conduct the review; and
- the contractor requests that the ministry conduct the review.

#### Programs Administered Centrally

A small number of programs or program components may be administered, in part or in whole, at headquarters rather than in regions. These programs will develop complaints procedures for those decisions made at headquarters, modelled on the Complaints Process, which include an initial resolution process involving those responsible for the initial decision and utilizing staff with technical expertise regarding the program, and a separate, independent review by an uninvolved manager. Regional designated complaints reviewers will act as a single point of contact for complainants upon request.

#### Employee Relations

The complaints process is distinct from employee relations and personnel matters and activities as defined in collective agreements, government personnel policies, and the *Public Service Act*. If potential employee relations or personnel issues arise during the course of the complaints process, then an investigation must occur that is separate and apart from the complaints process and consistent with any relevant collective agreements, personnel policies and the *Public Service Act*.

#### Contractor Relations

The complaints process is distinct from contractor/ministry relations as defined in sectoral agreements, contract policy and individual contracts. If potential quality of service issues arise during a complaint review, then an investigation must occur that is separate and apart from the complaints process and consistent with any relevant agreements, policies, and contract provisions.

## **Further Information**

For further information on the Ministry of Children and Family Development Complaints Process, please consult the attached appendices:

- Appendix 1: Complaints Process Principles – provides further information about the 14 principles guiding the Complaints Process
- Appendix 2: Guide to Interpretation – provides definitions and interpretation for italicized terms in the policy parameters
- Appendix 3: Statutory Provisions Regarding Administrative Reviews – provides a list of statutes relevant to administrative reviews
- Appendix 4: Child-centred Reviews – provides guidance on how to carryout a “child-centred review”
- Appendix 5: Test - Matters Before the Courts – provides a test to help determine whether an issue raised in a complaint is a matter before the courts
- Appendix 6: Flowchart of Complaints Process – diagram representing the complaints process

## APPENDIX 1: COMPLAINTS PROCESS PRINCIPLES

*The following principles govern the ministry's Complaints Process.*

**Accessibility and Information:** The complaints process must not present any administrative or systemic barriers. Information describing the complaints process and how to access it must be available wherever ministry services are delivered in a manner that accommodates different cultures or people with disabilities.

**Accountability:** The complaints process is an integral part of overall quality assurance. From a professional and ethical point of view, the ministry accepts and recognizes the need for and the benefit of accountability to the individual and to the public.

**Child-Centred:** Where a complaint is about services to a child, the best interests of the child shall guide the complaints process. The process itself will accommodate and be sensitive to the age, capacity and developmental level of the child and a child's sense of time.

**Client-Centred:** The needs, concerns and issues of the primary client receiving service shall guide the complaints process, irrespective of who has brought forward a complaint. The process will seek to hear and protect the best interests of vulnerable parties.

**Consistency:** The same principles apply across the province and an accessible complaints process must be in place everywhere.

**Culturally responsive and inclusive:** The ministry is committed to being responsive and sensitive to the culture of clients and complainants. The complaints process accommodates people whose first language is not English and recognizes the diverse cultural backgrounds of those we serve. The ministry is committed to identifying and removing potential barriers to full participation in the complaints process by all clients of whatever culture or background.

**Entitlement:** Persons affected by ministry decisions and policies have a right to make a complaint and to expect that there is an equitable and effective system to hear and resolve their complaint.

**Fairness:** The ministry incorporates the concept of administrative fairness and due process in its decisions and actions. Clients are assisted in the process of initiating and following through on complaints upon their request.

**Local Resolution Preferred:** Staff and complainants are encouraged and given the opportunity to resolve complaints locally before proceeding to a further stage in the complaints process.



**Openness:** The ministry is open to re-examining decisions made or actions taken and to undertake a review if concerns are expressed. The complaints process recognizes the benefits of allowing practitioners to resolve issues at a local level whenever possible. The complaints process must involve the operational manager if a significant decision is to be changed.

**Responsive to the Aboriginal Community:** The complaints process must be sensitive and respectful of the Aboriginal culture and heritage of those receiving service. The ministry must ensure that all service contracts, protocols and agreements with Aboriginal agencies and communities have embedded within them an appeal or dispute resolution process that is accessible, fair and timely in its response to complaints.

**Right to Advocacy and Support:** Complainants have the right to be accompanied at all stages in the complaints process by an advocate or support person. Advocacy is recognized and supported as a means to assist individuals and to support processes which lead to resolution including enhanced communication, mediation, etc.

**Safety:** Anyone receiving or entitled to receive services from the ministry has a right to complain. Neither they, nor others assisting them in the complaints process, will be subject to reprisals as a result of initiating a complaint. Legal protection is afforded anyone laying a complaint about services under the *Child, Family and Community Service Act*, section 101(1).

**Timeliness:** All complaints will be dealt with in an expedient manner, and prioritized where necessary. It is anticipated that the length of time from when a complaint is made to its resolution will be 30 working days or less.

## **APPENDIX 2: GUIDE TO INTERPRETATION**

*The following definitions (in alphabetical order) shall guide interpretation of the Complaints Process “Policy Parameters”.*

### ***Administrative fairness and natural justice***

*Administrative fairness:*

- availability and timeliness of information and communication;
- accessibility of services;
- provision of notice of the outcome of investigations or of decisions;
- adherence to the organization’s legal authority to act;
- information about and access to appeal, review and complaint procedures;
- clarity of roles in the organization; and
- involvement of clients in program planning.

*Natural justice* refers to the right to be informed about decisions or actions that may affect an individual and the right to be heard and to respond to those decisions or actions before they occur.

The ministry reviews all complaints to consider the individual merits of a complaint before determining if any policy governing a service may be fairly applied or if the policy has unintended, negative consequences. If policy-related concerns arise, the designated complaint reviewer must alert the appropriate policy center about those concerns.

### ***Complaint/client concern***

For the purposes of this policy, a *complaint or client concern* may be defined as:

- an expression of dissatisfaction or aggrievement about an action or decision taken by the ministry.

### ***Complainant***

For the purposes of this policy, a *complainant* may be defined as:

- A person or someone representing a person who is receiving or believes him/herself eligible to receive services from the ministry;
- A child or youth receiving services or who believes him/herself eligible to receive services;
- A family member, caregiver or a person acting in a parental role<sup>4</sup> on behalf of a child

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<sup>4</sup> The laying of a complaint about services to a child causes uncertainty in a child’s life and requires the review of private information, effecting both the child and significant people in the child’s life. Since there are a number of people, critical in a child’s life, who may represent them, complainants wishing to complain on behalf of a child should have a close connection to the child with sufficient connection to the child to represent the child.

- or youth receiving services or who is believed eligible to receive services; \*
- A person representing a child, at the behest of the child or youth;
- A person such as a doctor, teacher, or care provider accessing services on behalf of a child or youth;
- A group of individuals or agencies who receive direct services from the ministry, other than by contract;
- An adult receiving or who believes him/herself eligible to receive adult services from the ministry;
- A person accessing or arranging services on behalf of an adult receiving or who is believed eligible for adult services from the ministry. \*
- A foster parent may make a complaint using the complaints process when he/she is complaining about the services or eligibility for services of a child in care. \* For all other issues, foster parents are covered by special protocols, such as the protocol for Resolving Issues Between Foster Parents and ministry staff.

**\* The ministry may refuse, discontinue or close a complaint laid by a third party about the services, or eligibility for services, of a child or adult client upon the request of the child or adult client (the person about who's treatment the complaint is being laid). The request to refuse or discontinue a complaint will weigh the following factors:**

- the nature of any safety, health and/or welfare concerns raised by the complaint;
- the ability of the client to understand the implications of their request; and
- satisfaction that such a request is made of the free will of the client, without exertion of pressure by other parties.

**If a complaint is refused, discontinued or closed, the complainant must be provided information on alternate independent review mechanisms.**

### ***Eligible matters for complaints***

For the purposes of this policy, the *subject matter of a complaint* includes, but is not limited to, matters in the present or the past regarding:

- Being treated with dignity and respect;
- Fairness;
- Sensitivity towards cultural diversity;
- Adequate communication and education;
- Case planning and decision-making;
- Quality of care;
- Eligibility for services;
- Access to services; and
- Clients rights under legislation, regulation, or policy.

The ministry will accept and review complaints (such as complaints related to section 70 rights of children in care) even when the complainant or the subject of the complaint is or has been involved in an on-going legal action, if the complaint is not related to the legal action and/or issues before/decided by the court. When the investigation or resolution of a complaint through the complaints process would impact a *CFCSA* application before the court or a current protection investigation, the complaint review should be deferred until the court hearing or investigation has been concluded.

The ministry will not accept complaints or will suspend or discontinue review of complaints regarding:

- general concerns respecting legislation or policy, rather than those regarding the application of legislation or policy to a specific client;
- general budget allocation decisions or overall funding for a program or service, rather than client-specific funding decisions;
- labour relations or personnel issues;
- matters constituting criminal activity (any such complaints must be forwarded to the police and the crown);
- any matter before the BC Human Rights Tribunal (if the matter is being considered for acceptance by the tribunal, the ministry complaint review may be suspended until such time as it is accepted or not accepted for review by the tribunal)
- any matter that is accepted as being properly before the Ombudsman, the Children's Commission, or any tribunal with jurisdiction on the matter
- any matter or issue which has been decided or determined by the courts;
- any matters which are specifically before the courts; and
- historical matters where:
  - the matter has occurred at such a time in the past that pertinent records and information no longer exist;
  - legal action is being taken against the ministry; and/or
  - the issues are raised that are criminal in nature and should be investigated by law enforcement authorities.
- See Appendix 5 for the test that shall be applied to determine if a matter is under review by another authority.
  
- The ministry will not accept complaints made by or on behalf of individuals who are in contravention of a valid, current court order relevant to the complaint matter. A complaint may be accepted when the individual or individuals are no longer in contravention of any relevant court orders. Decisions made to accept or not accept a complaint in these types of circumstances should be made in consultation with the ministry's legal counsel.
- As with any request for a complaint review any information received that would constitute a child protection concern under the *CFSCA* would be immediately reported to the regional manager responsible for child protection.

Any complainant whose complaint is refused or deferred by the designated complaint reviewer will be provided information on appeal mechanisms and independent reviews.

### ***Factors to consider in reviewing a complaint***

For purposes of this policy, *factors to consider in reviewing a complaint* include, but are not limited to, the following:

- principles of administrative fairness and natural justice;
- principles of legislation and policy governing the provision of service to the complainant or any individual affected by the complaint;
- reasons for a decision, action or failure to act on the part of a staff member;

- reasons why the complainant is dissatisfied with the decision, action or failure to act;
- the views of the child, where a child is involved in the complaint, but is not the complainant, about the decision, action or failure to act;
- the views of the primary client, where the client is not the complainant, about the decision, action or failure to act;
- the views of the complainant;
- available resources and budgetary limits;
- applicable standards, policy, regulation, and legislation;
- any alternative resolution to the complaint; and
- whether immediate action is required.

### ***Formal/Regional Resolution***

For purposes of this policy, *formal or regional resolution* includes, but is not limited to, attempts by the designated complaints reviewer or the Regional Executive Director to seek resolution to a client concern.

- The Regional Executive Director will designate either themselves or a specific staff member (the designated complaints reviewer) who will have the responsibility for hearing, investigating, reviewing and attempting to resolve any formal complaints within the region.
- The RED has the final authority and responsibility, within the region, to substantiate the outcome of complaint reviews and implement recommendations originating from complaint investigations.
- Designated complaint reviewers have a general responsibility for the oversight of complaints and dispute resolution within their region.
- Complainants, in discussion with designated complaint reviewers, determine whether their complaint will be handled informally or formally. If a complainant requests a formal complaint review one must be provided. If a complainant is referred to operational staff for informal resolution they must be informed of their right to request a formal review at any point in time and the designated complaints reviewer should check with the complainant to determine the status of their complaint after the 30 working day timeline for informal complaint review.
- Designated complaint reviewers may act to facilitate resolution in informal complaints/dispute resolution. Such facilitation on the part of a designated complaint reviewer does not determine whether a complaint is formal or informal.
- Mutually agreed upon formal mediation is an accepted part of, or replacement for, a formal complaint review.
- Formal complaints will be completed within 30 working days and result in one of the following:
  - resolution of a complaint (a settled complaint);
  - a finding as to the validity of the complaint;
    - founded, if the review confirms the substance of the complaint;
    - unfounded, if the review confirms the decision, action or failure to act on the part of the ministry or ministry staff member;

- not confirmed, if, in infrequent instances, after a full and complete review, the review can confirm neither the substance of the complaint nor the decision, action or failure to act on the part of the ministry;
- closure, suspension, or discontinuation of the complaint review.
  - Complaints may be withdrawn by the complainant, or closed by the designated complaint reviewer if the complainant has abandoned the complaint or the complaint cannot continue for a reason set out in the policy.
- The RED must be regularly informed of the outcome of complaint reviews and the status of the implementation of any recommendations resulting from the review.
- Complete records will be kept of all formal complaints, including entering of the complaints into a central information management system.

### ***Frivolous or vexatious***

For purposes of this policy, *frivolous or vexatious* complaints include, but are not limited to, complaints that are, or would appear to a reasonable observer to be, petty, superficial, or trivial, or that are intended to irritate or provoke anger, rather than intended to resolve a problem or correct an error. If a designated complaint reviewer refuses a complaint on the basis that it is frivolous or vexatious, he/she must inform the complainant of available avenues of independent review.

### ***Independent Reviews***

For purposes of this policy, *independent reviews* which are separate from the complaints process include, but are not limited to, the following:

- For complaints about programs and services for adults, complainants may request a Deputy Minister Review after the complaints process has been exhausted.
- For complaints related to services for children and youth, complainants have the right to ask the Children's Commission for an independent review.
- For any complaints where an individual believes that a public authority has been unfair, complainants have the right to ask the Ombudsman for an independent review.
- For complaints related to the ministry's compliance with the *Freedom of Information and Protection of Privacy Act*, complainants have a right to ask the Information and Privacy Commissioner for an independent review.
- For complaints regarding youth correctional facilities and programs including wilderness camps, independent review may also be provided through the Office of Investigation, Inspection and Standards (IISO). Upon the request of the Deputy Minister, the IISO will conduct special investigations or audits. In addition, the IISO may provide a review of complaints regarding the administration of the *Correction Act* (as it affects the complainant) upon receiving a written complaint.

### ***Informal/Local Resolution***

For purposes of this policy, *informal or local resolution* includes, but is not limited to, attempts by individual workers, their supervisors and/or operational managers to seek resolution to a client concern.

- Client concerns are to be dealt with initially at the source as part of normal dispute resolution. Client concerns that are brought to the attention of line staff are informal complaints. Ministry staff must attempt to resolve these client concerns. This process is efficient and aligns with the principle of managerial responsibility.
- Ministry staff must also inform clients about the complaints process, and provide clients with a copy of the Complaints Process brochure.
- A client may request a formal review at any point in time, and ministry staff must help the complainant contact the designated complaint reviewer.
- Informal complaint resolution will be completed within 30 working days and result in one of the following:
  - resolution of settlement of the concern/complaint;
  - withdrawal of the concern/complaint by the complainant;
  - referral of the complainant to the formal process and the designated complaints reviewer.
- Priority must be placed on identifying and resolving those complaints which involve a possible breach or violation of an explicit legislated right afforded to a child or youth (such as those under s. 70 of the *CFCSA*, s. 11 of the *Young Offenders Act*, or the *Secure Care Act*).
- Where mechanisms are designated for complaint resolution such as a review by the director of a youth custody centre, family conferences, or mediation under s.22, *CFCSA*, then these mechanisms apply to complaint resolution at the local level.
- Informal complaints will not be formally tracked or recorded as the process of addressing client concerns is an on-going part of the duties of ministry staff. Staff will record information about the concern, and its resolution, that is necessary for on-going operations.

### ***Notification***

For purposes of this policy, *notification* includes, but is not limited to, the following:

- When an eligible formal complaint is received, the designated complaints reviewer will send a letter to the complainant confirming receipt of the complaint, outlining the matter that will be reviewed, and enclosing a copy of the complaints process information brochure.
- If a complaint is suspended or discontinued, the designated complaints reviewer will inform the complainant of that decision and the reasons for it.
- At the close of a complaint, the designated complaints reviewer will send a letter to the complainant containing: a written finding with reasons to support the decision, and information about available *independent review* processes.

## ***Prioritizing a Complaint***

For purposes of this policy, *appropriate circumstance for prioritizing a complaint* include, but are not limited to, the following:

- the complaint involves risk to a child or other vulnerable individual;
- the complaint involves a breach of rights of a child in care of the director under s.70, *Child, Family and Community Service Act* or a violation of rights under s.3 or s.11 of the *Young Offenders Act*;
- the complaint involves health and safety issues or the personal safety and security of the person(s) affect by the complaint;
- the Minister, Children's Commissioner, or Ombudsman has requested a review;
- the complaint involves systemic issues which may have a broad impact and lead to additional complaints by other complainants if not addressed immediately.

## ***Remedies***

For purposes of this policy, *remedies* available include, but are not limited to:

- an explanation;
- provision of a service;
- a change of the initial decision;
- additional training for staff;
- an apology;
- a change in operational practice to try to prevent a similar event from occurring; and
- in some cases, a change in policy or practice

Many of these remedies will require consultation with the operational manager (e.g., an apology), confirmation by the operational manager (e.g., provision of a service) or a decision made by the operational manager (e.g., a change of a clinical decision).

If it is determined that the appropriate remedy for a given complaint is an apology the designated complaints reviewer will consult with the ministry's legal services before the apology is provided.

Remedies do not include:

- financial compensation for legal fees or other expenses. If a complainant wishes to claim for financial compensation, the designated complaint reviewer may provide a report of the relevant review, and the complainant's claim for compensation, to the appropriate operational area for review and decision on any claims.
- actions of a disciplinary nature. If a complaint raises issues of a disciplinary nature, the designated complaint reviewer may provide a report of his/her review to the appropriate parties and a separate and complete investigation consistent with any relevant collective agreements or personnel policies must be carried out.



### ***Specific protocols and/or complaints processes***

For purposes of this policy, *specific protocols and/or complaints processes* available, which are not part of the ministry's complaints process (and should be used rather than the ministry's complaints process where they apply), include, but are not limited to:

- *Conflict Resolution Protocol, Continuing Agreement Policy and Client Services Agreement Policy*: these protocols were jointly established by the service sector and government and apply to the contractual relationships entered into by the Province for the provision of community health and social services which are eligible for these agreements. It outlines a formal process for resolving conflicts about a contract or contract terms.
- *Resolving Difficulties Between Ministry for Children and Families Staff and Foster Parents*: this protocol was jointly established between the ministry and the B.C. Association of Foster Parents. The protocol is to be used to resolve all difficulties arising between foster parents and the ministry related to how the foster parents are treated by the ministry. Only foster parent concerns about services to children in care may be referred to the ministry's complaints process.
- *First Nations Child and Family Services Agencies Complaints Processes*: delegated Aboriginal agencies must develop client complaint processes which are compatible with the ministry's complaints process. Some agencies have developed customized policies while others have adopted the ministry policy. These policies establish the process to be used for complaints about services delivered by the delegated agencies.

It is assumed that the complaints process is the appropriate avenue for resolution and review of any client concerns. In some cases, however, there may be a governing protocol which includes a dispute resolution process. In such cases, the dispute resolution mechanism in the protocol must be followed.

### ***Support Persons and Advocates***

For purposes of this policy, *support persons and advocates* include, but are not limited to, the following:

- For children and youth and their families, the Office of the Child, Youth and Family Advocate, an independent office reporting to the Legislature, can assist with the resolution of concerns and complaints related to service to children and youth. The Advocate's staff can provide information and referrals, and help complainants and/or clients with their advocacy needs.
- For community living clients and their families, the Office of the Advocate for Service Quality for People with Developmental Disabilities, which reports directly to the Minister, provides an avenue to assist with the resolution of concerns and complaints. The Advocate supports adults with developmental disabilities and their families in working with ministry staff and service providers.
- Any one person or organization, whose participation is requested or approved by the complainant and/or the client who is the subject of a complaint, who may help a

complainant and/or client through during the complaints process with support, information, advocacy, and/or communication with the ministry.

Ministry staff must allow the participation of the complainant and/or client's chosen advocate or support person in the complaints process except under the following circumstances:

- when the chosen support person or advocate is abusive or threatening;
- when the chosen support person or advocate is supporting or acquiescing in the breach of a valid, current court order regarding a child (or children) or a family;
- where the chosen advocate or support person's presence would directly counter the ability of the parties to seek resolution or review. This determination must not be made lightly and must be made in consultation with the region's designated complaint reviewer.

A client or an advocate or support person may appeal any decision not to allow a chosen advocate or support person to participate in the complaints process to the Regional Executive Director.

## **APPENDIX 3: STATUTORY PROVISIONS REGARDING ADMINISTRATIVE REVIEWS**

### **A. Ministry legislation providing for administrative reviews.**

#### Adoption Act, section 91(2)(o)

The Lieutenant Governor in Council has the authority to make regulations governing the review of decisions made by the superintendent or an adoption agency.

[No regulations have been made under this statutory authority.]

#### Child, Family and Community Service Act, sections 89, 93(3), and 101(1)

A person may ask the Information and Privacy Commissioner to review a decision of a director regarding access to a record or correction of a record.

A director must establish a procedure for reviewing the exercise of the director's powers, duties, and functions under the Act in accordance with the Regulations.

It is an offence to:

- intimidate, coerce, discipline or otherwise discriminate against a child because the child has requested or is the subject of, or has given information or otherwise assisted in, a review (under s. 93(3)).
- discharge, suspend, expel, intimidate, coerce, evict or impose a financial or other penalty on, or otherwise discriminate against, a person other than a child because the person has requested a review or has given information or otherwise assisted in such a review (under s. 93(3)).

#### Child, Family and Community Service Regulation, Part 5

A request may be made by a child, a parent, the Child, Youth and Family Advocate, or any person representing a child or parent, to review any decision, act or failure to act of a director which relates to the provision of service to a child or family.

### **B. Other legislation providing for external reviews for decisions made by ministry staff.**

#### Child, Youth and Family Advocacy Act, sections 2(a) and 4(1)(a)

Among other things, the mandate of the Child, Youth and Family Advocate is to ensure that children, youth and their families have access to fair, responsive and appropriate complaint and review processes at all stages in the provision of designated services. The Advocate may investigate and review a case of one or more individuals or groups of them, whether or not a request or complaint is made.

Children's Commission Act, sections 4(1)(f) and 10

The Commission may review and resolve complaints about breaches of the rights of children in care, and decisions concerning the provision of designated services to children. The complaint may be made by the child, the child's parent, any other person representing the child, and the Child, Youth and Family Advocate.

Correction Act, sections 34(1)(d) and 35(2)(i)

The Director of the Investigation, Inspection and Standards Office must investigate complaints about the administration of this Act as it affects the complainant, on receiving a written complaint from:

- (i) an inmate;
- (ii) a young person who has been held in a youth custody centre;
- (iii) a person on probation under this Act or on parole under the Parole Act; or
- (iv) a parent or guardian of a youth described in subparagraph (ii) or (iii).

The Lieutenant Governor in Council may make regulations establishing a process by which decisions made or dispositions imposed by a disciplinary panel may be reviewed and establish the practices and procedures to be used in that process.

Freedom of Information and Protection of Privacy Act, section 52(1)

A person who makes a request to the head of a public body, other than the commissioner, for access to a record or for correction of personal information may ask the commissioner to review any decision, act or failure to act of the head of the public body that relates to that request.

Ombudsman Act, section 10(1)

The Ombudsman with respect to a matter of administration on a complaint or on the Ombudsman's own initiative may investigate:

- (a) a decision or recommendation made,
  - (b) an act done or omitted, or
  - (c) a procedure used;
- by an authority that aggrieves or may aggrieve a person.

## **APPENDIX 4: CHILD-CENTRED REVIEWS**

### **Introduction**

Many of the services delivered by the ministry are services to children and youth. Thus, complaints made to the ministry are often about services that are being received by, or have been denied to, a child or youth (a child or youth is the “subject” of the complaint).

The following guide is intended to aid staff in being child-centred as they review and seek to address client concerns and/or complaints at all levels, from local dispute resolution through formal complaints. In this material, the term “child” is intended to describe both children and youth to the age of majority.

### **What is being child-centred?**

- Child centred is treating all children with dignity and respect.
- Child centred is assuming children are included and will participate in decision making processes that affect them. Excluding them will only be considered in exceptional circumstances.
- Child centred is viewing every decision according to its impact on an individual child.
- Child centred is making quality decisions for children.
- Child centred practice accepts that children have rights and acknowledges that these rights cannot be taken away.
- Child centred is listening and considering what children have to say within a process accessible to and useable by children.
- Child centred is being open to what a child is saying if they contradict information provided by adults.
- Child centred is recognizing that giving acknowledgement and due consideration to a child’s views is part of determining their best interests.
- Child centred is ensuring children get what they need and that they understand that they may not always get everything they want.
- Child centred is knowing what rights a child has in connection with a given issue, hearing and valuing the views of the child, and ensuring that the best interests of the child are central to decision-making.

### **What is a child-centred complaint review?**

Two elements are the basis of child-centred complaint review:

- hearing the views, opinions and concerns of the child; and
- holding the child’s best interests<sup>5</sup> primary in any and all decisions.

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<sup>5</sup> “best interests” for children in care are defined in Section 4 of the *Child, Family and Community Service Act* and section 1.4 of the policy manual. Where appropriate this definition of best interests will be used.

Note: The “best interests” principle does not have the same applicability with youth justice services. Rather, the *Young Offenders Act* requires a balancing and weighing of the needs and interests of young persons with the public interest or the protection of society. These are most often, but not always, compatible principles. Accordingly, the best interests of young persons should still be considered, but with the

These two elements should be held paramount throughout a complaint review, in attempts at resolution during the course of a complaint, when collecting and weighing information, and when making a decision about a complaint.

It is important to hear, understand, value and consider the views of the child or youth, even if the child is expressing views that do not seem to be or are not in the best interests of the child. At the same time, the best interests of the child must guide decision-making. Hearing, valuing and considering the child's views does not necessarily mean that the child will get what he/she is advocating for, if this is deemed contrary to his/her best interests. A child may not fully appreciate the significance or implications of his/her wishes in the short or long term. It does however, mean that if a child has expressed a view contradictory to his/her best interests, and his/her best interests have guided decision-making in a complaint, the child should be informed of the reasons for the decision, acknowledging his/her views.

Complaint reviews, and the reports and records generated in the course of the review, should reflect how the reviewer ensures the child's views were heard and fully considered.

### **When are a child's views relevant?**

A child's views are always relevant when a complaint affects him/her. Staff will, however, modify how these views are obtained based on the child's age and capacity. While it is assumed that a child's views will be sought directly, via an interview, inclusion of a child's views may not always take this form.

Children and youth may lay such complaints themselves, or with the help of an advocate. Where a child brings forward a concern or complaint, or where an advocate brings forward a complaint directly on behalf of a child, the child is the complainant. Under these circumstances the child's views should be sought directly.

Alternatively, a parent, guardian, family member or other concerned party may make a complaint where a child or youth is the subject of a complaint but has not laid the complaint. Examples of such complaints include a parent alleging a breach of a child's rights or denial of services to a child. In such cases, the child's views and best interests must guide the complaint review. In general, it is anticipated that the child will be directly contacted for his/her views on the complaint.

Since the child has not brought forward the complaint, the designated complaint reviewer may wish to consider a number of factors in directly seeking the child's views including:

- the physical health and functional abilities of the child and his/her ability to communicate his/her views;
- the psychological health of the child and the impact of an interview on the child; and

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recognition that there are other considerations and that the best interests principle may not necessarily be the over-riding principle in some circumstances.

- the age of the child and his/her ability to form views on the subject matter of the complaint, to communicate his/her views, and the impact of an interview on the child.

The decision to exclude a child from direct participation must not be made lightly but rather with considerable deliberation. If a decision is made not to interview a child, the reasons for that decision should be thoughtful and considered. Any rationale for not including a child in a review must be documented.

If, due to these factors, the designated complaint reviewer believes it inadvisable to seek a child's views directly he/she should seek to obtain the child's views (or a representation of those views) through alternate channels. One possible source for an indirect expression of the child's view may be an advocate (organizational (e.g., the Child, Youth and Family Advocate) or individual).

Another critical source may be significant people in the child's life who can represent the child's views, rather than their own views. Since each person is likely to "filter" his/her perception of "the child's views" through his/her own understanding of the child and the circumstances, it is important to seek the child's views indirectly from multiple sources. People consulted in order to obtain the child's views should know the child well in order to be familiar with the views, wishes, and desires of the child. The designated complaints reviewer should be open to consulting with whomever may best represent the child's views. The goal is not a "professional opinion" but to learn about the child's views. Those consulted may include, but are not limited to: family members, siblings, family friends, teachers, care providers, foster parents, social workers, etc.

Finally, complaints may be laid where an adult is involved with the ministry as a result of the ministry's provision of services to a child or youth but where the complaint is about the ministry's interaction with the adult rather than services to a youth. Examples of such complaints might include a parent's concern that a social worker has not communicated in an appropriate manner or that the parent has not been informed about a policy or procedure that has negatively affected him/her. Under such circumstances, it is not anticipated that the designated complaint reviewer would seek the child's views, unless relevant as evidence, taking into account the factors noted previously.

## ***Child Centred Checklist***

**If an adult complains on behalf of a child or youth, the process should be re-focused on the child to:**

- ❑ determine if the child's views have been sought by the complainant;
- ❑ find out if the child agrees or disagrees with the complaint;
- ❑ find out if the child wants the complaint to proceed<sup>6</sup>;
- ❑ ensure that the child's views are paramount and need to be heard, understood and considered;
- ❑ investigate complaints regarding services to a child to determine their merits; not discounting the validity of a complaint about the treatment of, or services to, a child on the basis of the clarity and reasonability of the complainant's concerns;
- ❑ ask;
  - ❑ whose needs are being represented in the complaint?
  - ❑ how conscious is the complainant of the child's needs and best interests?
  - ❑ how healthy is the adult complainant's relationship with the child?
  - ❑ does the complainant represent the child?
- ❑ ensure that the child has an independent advocate if the adult complainant cannot act as an advocate for the child (represent the child's views and interests); the Child, Youth and Family Advocate may be able to act as an advocate, providing support or helping in identifying other potential advocates.

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<sup>6</sup> A designated complaint reviewer may wish to discontinue a complaint review (providing the complainant with information about external review mechanisms) if the child or youth who is the subject of the complaint does not wish the complaint to proceed. Factors that must be considered in weighing the child's clear desire for the complaint not to proceed include:

- the nature of any safety, health and/or welfare concerns raised by the complaint;
- the maturity of the child or youth and/or their ability to understand the implications of their request; and
- satisfaction that such a request is made of the free will of the child or youth, without exertion of pressure by other parties.



**Whenever a complaint is about or from a child or youth, the child or youth will:**

- ❑ be treated with respect and sincerity;
- ❑ be spoken with personally in a friendly, open manner and environment;
- ❑ be spoken with in a communication style appropriate to his/her age, and be consulted with, in an appropriate manner, even if very young;
- ❑ be encouraged to participate;
- ❑ be listened to in an active and considered manner;
- ❑ be asked to share his/her views/opinions;
- ❑ be provided with an interpreter if language or disability is a communication barrier;
- ❑ be offered appropriate opportunities for support, help, advocacy from the beginning of the process;
- ❑ be spoken with immediately if he/she calls or visits seeking to make a complaint;
- ❑ be fully informed of the complaint and/or the complaint process;
- ❑ be able to make a formal complaint to be reviewed by the designated complaints reviewer at any time if he/she requests (staff should be sensitive to any reluctance on the part of the child to attempt informal resolution);
- ❑ be provided plain language description/ 'map' of the entire complaint process (informal to formal to external);
- ❑ be informed of what he/she can reasonably expect and when (including timelines);
- ❑ be informed of potential outcomes;
- ❑ be asked his/her opinion on who else should be included in the process;
- ❑ be assured he/she will be safe and suffer no form of retribution (including, if relevant, an explanation of the protection afforded by S. 101 of the *Child, Family and Community Service Act*);
- ❑ be fully informed of his/her rights (under any relevant legislation such as the *Child, Family and Community Service Act*, S.70, or policy); complaints relating to breaches of such rights will be identified clearly as pertaining to a breach of rights;

- ❑ be aided in clarifying and articulating his/her complaint if required (if necessary, the scope of a review may be expanded to ensure other issues raised in the course of the review are also investigated);
- ❑ have his/her complaint prioritized based on both sense of time and the importance and urgency of whatever issue has been raised;
- ❑ be interviewed in a manner sensitive to his/her emotional, psychological or physical health, as well as his/her cultural background (the designated complaints reviewer may wish to involve an external advocate or uninvolved staff with appropriate expertise to aid in ensuring a sensitive interview);
- ❑ be involved in any mediation or other alternate dispute resolution processes;
- ❑ be kept informed of the process including any progress/any changes in time frames, etc., on a regular, scheduled basis;
- ❑ be made aware of decisions that are being made in the process and the reasons for the decision;
- ❑ have the views that he/she has expressed fully and thoughtfully considered when decisions are made;
- ❑ have his/her long-term needs and interests considered;
- ❑ be provided a clear, plain language explanation of any decisions made in the complaints process and the impact of those decisions;
- ❑ have his/her views acknowledged in the decision. If he/she expressed views during the review which are contrary to the decision made, he/she should be told the reasons for the decision made and on what basis it is believed the decision to be in his/her best interests;
- ❑ have access to easy to understand written reports including a personalized explanation (face to face);
- ❑ be provided specific definitions of terms used to describe resolutions in the complaints process (such as "unfounded");
- ❑ be provided the opportunity to ask questions and seek clarity from an accessible, identified person;
- ❑ be provided friendly, helpful information on the 'next step' in the process;

- ❑ be aided in keeping the complaint moving to the next available avenue of review once a review process has been exhausted or it becomes clear that resolution will not be possible;
- ❑ be contacted in follow-up to the complaint if he/she has expressed any concerns about retribution.

## **APPENDIX 5: TEST – MATTERS BEFORE THE COURTS OR OTHER AUTHORITIES**

### Introduction

On occasion complainants will request a review by the ministry when an issue related to, or the same as, the issue they wish to complain about is properly under review through the courts or by an independent review body (e.g., the Ombudsman, the Children’s Commission, the Human Rights Tribunal, or any administrative tribunal with the jurisdiction and mandate to hear the matter).

This test will help lead reviewers through the questions they must consider to determine if a complaint issue is one that they may review or if it is an issue for which they should defer to the other review body.

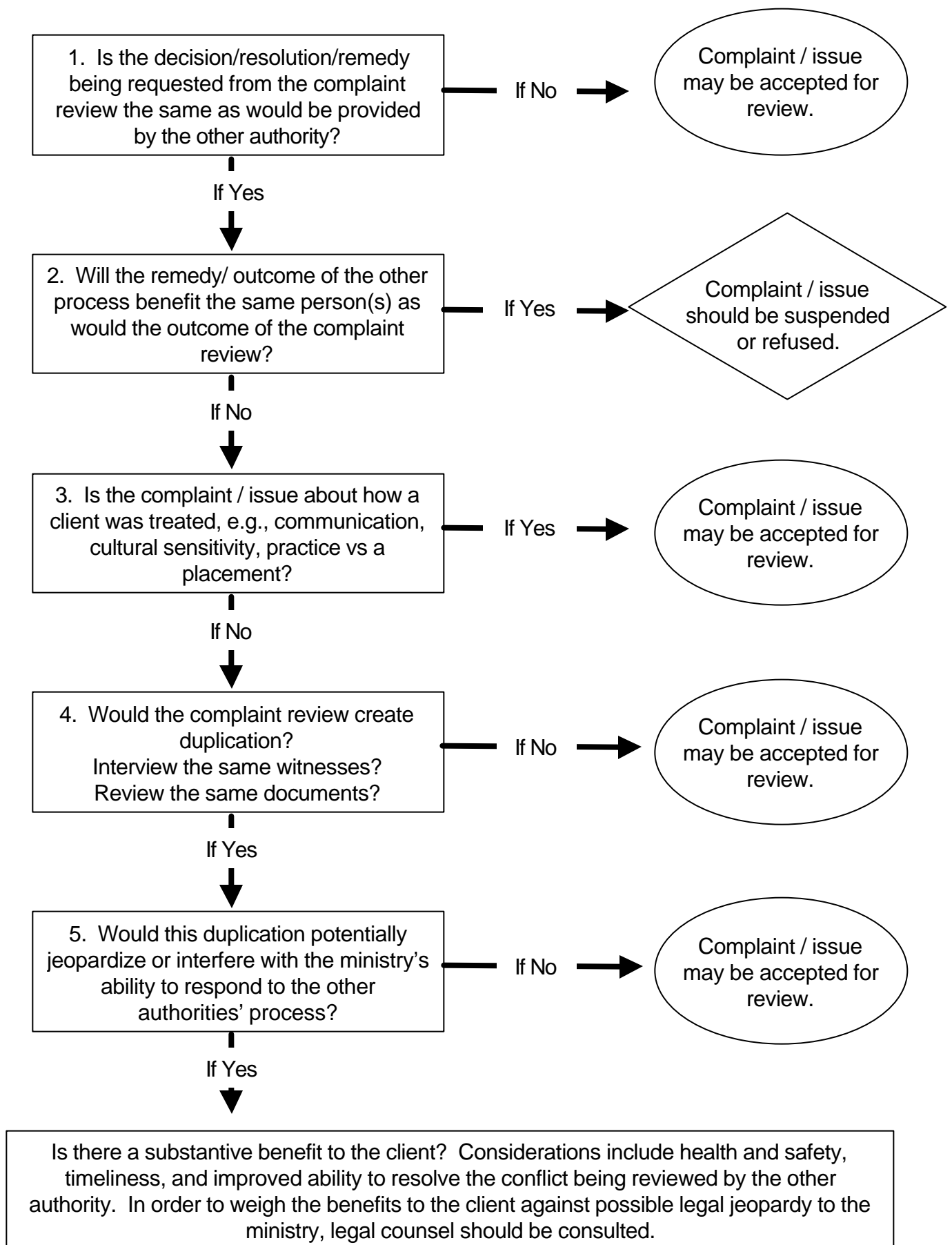
Complaints often include a number of specific and distinct issues. Each individual and specific issue should be considered separately to determine if that specific issue is one that may reviewed or should be deferred.

The decision to refuse or suspend review of a complaint should only be made after careful consideration. Any questions about how to apply this test and or whether a complaint review should be refused or suspended should be referred to the ministry’s legal counsel.

This test is intended to help determine if a complaint or specific issue may be addressed through the ministry Complaints Process. The ministry may be involved, at any point in time, in other alternate processes intended to aid resolution of a client concern(s). This test is not intended for application to any such alternate processes.

### How to Use This Test

- Assess each issue raised in the complaint(s) separately.
- The questions presented in the test often do not yield absolute “yes” or “no” answers, rather it may be a matter of degree – “is it more or less the case?”.
- This test assumes that a reviewer will also apply any other appropriate eligibility criteria to the complaint matter/issue.
- A determination that a specific issue in a complaint is before another appropriate review body does not mean that the ministry may not need to have a second look at a situation from a clinical perspective. Complaints related to clinical practice, which are not accepted for review, should still be considered for possible clinical review by operational staff.
- Applying this test should result in:
  - review of the issue (after application of other eligibility criteria)
  - refusal to accept the issue for review (if the issue has been decided or resolved by another authority).
  - suspension of review of the issue (if the issue is under review by another authority)



## APPENDIX 6: FLOWCHART OF COMPLAINTS PROCESS

