



**CHILDREN AS COMPLAINANTS IN THE
HEALTH AND PERSONAL SOCIAL SERVICES
IN NORTHERN IRELAND**

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1 EXECUTIVE SUMMARY AND RECOMMENDATIONS

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Health and Personal Social Services are required to respond positively and effectively to complaints from service users. In the case of children and young people, complaints about their treatment may arise within the post 1996 'Wilson Complaints procedures' or within the post 1995 Children Order procedure. This report investigates the operation of these two systems within Health and Social Services Trusts in Northern Ireland with regard to complaints made by or on behalf of children and young people. It also discusses the importance of such systems in upholding children's rights and in particular Article 12 of the U.N. Convention on the Rights of the Child which establishes the principle that children have a right to express their views on all matters of concern to them.

It was not possible within the confines of the resources made available for the study to also interview children, young people and/or their parents who had made complaints although this would have provided a very important perspective on the issues involved. However, the resources available for this study permitted a multi-method approach comprising four main elements. These four approaches and their resulting findings are noted below.

- 1) Analysis of administrative data held by the Department of Health Social Services and Public Safety. Departmental records for the half year January/June 2001 show that 2142 complaints were made. A total of 6.3% of these were in the Family and Child Care programme of care and 5.5% were in Maternal and Child Health, however complaints involving the care and treatment of children may occur in any of the other programmes of care with the exception of Elderly services.
- 2) A postal survey of HPSS Trust complaints staff in Northern Ireland seeking information on how complaints by or about children and young people are dealt with (the results are reported in Section 5 of this report). It was found that all of the 17 Trusts which responded to the survey provide information to the public on

the Wilson complaints system although less information was available on the Children Order complaints process. Most Trusts did not produce material targeted at children with disabilities or children from linguistic minorities. Half of the Trusts reported difficulty in dealing with complaints involving children. All but one Trust reported receiving Wilson procedure complaints from an adult on behalf of a child for the year ending 31st March 2001. However only two Trusts reported receiving complaints under the Wilson procedure made by children themselves. Fifty four out of the 104 Children Order complaints for the year ending March 31st 2001 were made by children on their own behalf. Of these children 50 were in residential care. When an adult makes a complaint on behalf of a child, only half of the Trusts reported that they attempted to discover if the child's views were the same as the presenting adult's.

- 3) A postal survey of potential child advocacy organisations to establish availability of independent advocacy services for children and young people who may need them (results are reported in Section 8 of this report). Of the forty nine organisations which responded to the survey 19 reported that they currently provide advice and/or support in relation to complaints involving children's treatment within Health and Social Services.
- 4) Semi-structured telephone interviews with eighteen lay people involved in Health and Social Services complaints processes in Northern Ireland (these are reported in Section 7 of this report). Some concerns were raised about the role of lay persons within the Children Order complaints procedure and the importance placed on their views and role as independent people by Trusts. The majority of informants felt that a child's best interests could be adequately put forward by an adult acting on the child's behalf. Only three could give examples of when children's own views had been actively sought.

A number of improvements should be made to improve the rights and representation of children within Northern Ireland Health and Personal Social Services complaints systems and to uphold children's Article 12 rights to express an opinion on matters concerning them.

RECOMMENDATIONS

- 1) We recommend that research with actual complainants should be undertaken as soon as possible by The Department of Health, Personal Social Services and Public Safety or the regional NHS R & D Office. This would provide important baseline information for the new Children's Commissioner expected to be appointed in 2002.**
- 2) We recommend that independent advocacy and support be easily accessible to all children and young people in residential care.**
- 3) We recommend that Trusts should be required to implement the recommendations of those who carry out the Children Order complaints and representation procedure.**
- 4) We recommend that all Trusts should be required to have readily accessible lists of those lay persons involved in their complaints procedures and should publish their identity in the Trust's Annual Report.**
- 5) Trust switchboard operators should be more aware of the relevant office number to which to refer complaints related queries.**
- 6) Complaints leaflets should include guidance on the kind of information which should be included in a complaint letter.**
- 7) The use of proformas and pre-paid envelopes currently in some Children's Order leaflets for children should be extended to Wilson system leaflets and to adults as well as children.**
- 8) We recommend that the Department/SSI should set a date by which all Trusts to whom the Children's Order is relevant should be required to have produced complaints material targeted at the most vulnerable groups of**

children and young people viz. children in residential care; children in foster care; children with disabilities whatever their care arrangements.

- 9) We recommend that the Department require Trusts to engage in six monthly pro active complaints publicity and consultation programmes with children in either of these forms of care and especially with children in foster care and/or looked after at home who are currently under-represented in complaints coming forward. In addition, the Department and the SSI/Board Children's Home Inspectors should require Trusts to produce six monthly reports documenting the actions they have taken and the changes to service they have made in response to children's complaints about residential and foster care. These new requirements should include the requirement that all such practice use disability sensitive methods and practices.**

- 10) We recommend that Complaints Offices be made more visible and accessible to children using services.**

- 11) We recommend that the Department should clarify the guidance about when to use the Wilson complaints system and when to use the Children Order complaints system.**

- 12) We recommend that in all cases of complaints involving a child Trusts should seek to determine the views of the child involved as well as those of the presenting adult.**

- 13) Complaints staff and lay persons need to be trained to recognise the importance of children's own views and their rights under Human Rights instruments and legislation to express them.**

- 14) Panel working methods should be modified where appropriate to create an environment comfortable for children including the use of interviewers experienced in working with children.**

- 15)The Department of Health, Social Services and Public Safety should immediately provide all lay persons involved in the HPSS complaints system whether Wilson or Children’s Order, with appropriate indemnity on behalf of all HPSS Trusts and Boards.**
- 16)The Department should also reissue guidance to Trusts stressing the importance of respecting the independence of lay persons.**
- 17)Feedback on the outcome of complaints to lay persons in both Wilson and Children’s Order complaints should be improved.**
- 18)The Health and Social Services Councils should appoint/designate one of their officers to work specifically with children and young people in the HPSS, to liaise with the non-statutory organisations involved in this area of work, and to liaise with and advise The Children’s Commissioner on HPSS complaints.**
- 19)All organisations, statutory and non-statutory, providing support and advocacy for children and young people should seek to challenge the culture prevalent in Northern Irish society generally, and the public services in particular, which accepts that adults ‘speak for’ children and young people.**
- 20)The department of Health, Social Services and Public Safety should provide guidance to all HPSS organisations of recognising and defining what constitutes a complaint.**

2 INTRODUCTION AND BACKGROUND TO THE RESEARCH

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Repeated inquiries into the care of children in residential and foster care settings have been necessary in recent years. Children and young people themselves are now recognised in both human rights law and domestic law on consent to medical treatment to have the right to participate in decisions about their social care and treatment once they have developed an appropriate level of understanding. Finally, complaints by or about the care and treatment of children and young people are estimated to be almost 12% of all HPSS complaints each year in Northern Ireland. (See table 4.1) How people are treated by the public services when they make a complaint may be regarded as a barometer of how they are treated by those same services in more routine circumstances.

These various factors and developments indicated it was timely to investigate how well the Health, Social Services and Public Safety systems responds to ‘expressions of dissatisfaction’ (that is, complaints) made by or about children and young people in Northern Ireland. The four Health and Social Service Councils funded the six month study reported here to investigate these issues in 2001. The research was undertaken by a small team from Queen’s University, Belfast led by E. McLaughlin, Chair of Social Policy at Queens.

BACKGROUND TO THE RESEARCH

A working definition of a complaint is 'any expression of dissatisfaction that needs a response.' (Cabinet Office, 1997: 1)

Both the personal social and health services (hereafter HPSS) are required to respond positively and effectively to complaints from service users. In the case of children and young people, complaints about their treatment in either part of the HPSS may arise within the post 1996 'Wilson Complaints procedures' or within the post 1995 Children Order (see Part IV) procedure. This section outlines the nature and development of these two systems and discusses the importance of such systems in upholding children's rights.

The Functions of Complaints Systems

Complaints systems have two main functions (Wallace and Mulcahy 1999). The first function is to provide a way for people who are dissatisfied with the service they have received to air their grievance and to receive a response. In this way, those who provide a service are made accountable to individual users who may receive some form of redress if their complaint is substantiated. The second function is to reflect a general societal interest in the efficient and effective resolution of grievances arising from public services. Complaints have enormous potential to shed light on the problems faced by ordinary people in their dealings with the Health and Personal Social Services and can serve as 'red flags' when service provision fails. They can provide a way of finding out the views of service users and may lead to improvements which benefit the whole patient and client population. The investigation and adjudication of complaints also sends out wider signals to HPSS employees about what is, and is not, acceptable behaviour within the organisation. In the case of children and young people specifically complaints systems must also be seen as an integral part of child protection structures and practices.

The Wilson Procedures

The current HPSS complaints systems procedures were introduced in the wake of a series of initiatives aimed at improving the management of complaints in the NHS.

The launch of the Citizen's Charter initiative in 1991 directed specific attention towards the handling of complaints within the public sector. The Charter Initiative characterised complainants as 'customers' in a quasi-contractual relationship with providers and viewed effective complaints handling as a key component of a responsive organisation. The Citizen's Charter Complaints Task Force (1993) also published a series of discussion papers around the seven core principles of 'accessibility, simplicity, speed, fairness, confidentiality, effectiveness and quality enhancement' which it believed should govern the management of complaints.

In the mid 1990's the Wilson Committee was established to rethink complaints handling in the health service. The Wilson Committee's report *Being Heard* was published in May 1994. The Committee's recommendations were accepted by the Department of Health and formed the basis of new regulations which came into effect in April 1996 and which remain in force. In response to these UK developments, the Northern Ireland HPSS Executive published *Acting on Complaints*; its revised policy and proposals for a new unified HPSS complaints procedure, in March 1995. These applied to services provided by health and personal social services in Northern Ireland, including hospitals, social services or family practitioners such as GPs, dentists, pharmacists and opticians. Complaints about the purchasing of health and social care which are the responsibility of HSS Boards and GP Fundholders are also covered as are services provided to HPSS patients or clients by the independent sector. The Wilson report and recommendations made no special mention of or provision for children and neither did *Acting on Complaints* and its associated procedures. Rather personal social services complaints about the care, upbringing and protection of children are handled separately under the Children (NI) Order as described later in the report.

The Wilson Procedures Main Characteristics

Local Resolution

The Wilson complaints system, introduced in 1996, places great emphasis on staff or practitioners dealing with complaints on the spot in a process known as Local Resolution. This was seen as the key to the new procedure being successful. The aim was that complaints should, in the first instance, be dealt with “quickly and where possible, by those on the spot” but at the same time “provide a comprehensive response that satisfied the complainant”. For Local Resolution to work effectively front-line staff need to listen to complaints, act to resolve complaints and subsequently to improve services as a result of complaints. Trusts and HSS Boards must have in place a process that aims to resolve most complaints on the spot or within a few days. If this is not possible a full investigation must be made and a response sent to the complainant within twenty working days.

Family Practitioners (GPs, dentists, pharmacists, opticians) must have practice-based complaints procedures in place which are managed entirely by the practice, with one person responsible for their administration. These procedures should be clearly publicised and an acknowledgement or initial response to a complaint should normally be made within two working days with an explanation normally being provided within ten working days. Where a complainant does not wish to have a complaint dealt with by the practitioner, or is having difficulty in getting the complaint dealt with, a designated officer from the Health and Social Services Board will, if both parties agree, act as 'honest broker' between the complainant and the practitioner. The aim of this is to facilitate dialogue between them so that local resolution can take place.

Independent Review

When Local Resolution fails to satisfy a complainant they can ask for an Independent Panel of persons to be set up to investigate the facts of the case in an Independent Review and to issue a report. A complainant should request such a Review within twenty-eight days of the Local Resolution process concluding. In Northern Ireland Health and Social Services Boards are responsible for organising such Panels and the Panel Convenor is normally a Non-Executive (that is lay) Director of the Board who

has been given a specific function in relation to complaints. A national evaluation of the NHS complaints procedure (York Health Economics Consortium 2001) found that, on average, more than 90% of complaints do not proceed beyond the local stage.

The Independent Review Panel

The panel has three members, the Convenor, an independent lay chairman and another independent lay person. The Convenor, in consultation with the independent lay Chairman decides whether or not to set up a Panel. The Convenor's job is to ensure the complaint is dealt with impartially and thoroughly. The Convenor can request background papers, written statements and if necessary, seek independent clinical advice. If a request for a panel is refused the reason must be clearly explained to the complainant.

The Panel's investigations should be informal, flexible, non-adversarial and ensure that both sides have a chance to express their views (usually at separate meetings).

For complaints relating to clinical or other professional judgement, Panels must be advised by at least two independent clinical assessors drawn from the speciality or professions concerned. The report(s) from the assessors are attached to each Panel's final report which has a restricted circulation.

The Panel report may make no reference to disciplinary matters. The relevant Health and Social Services Trust or Board must consider the report's content and inform the complainant of any actions taken as a result.

The Role of the Health and Social Services Councils

The staff of the Health and Social Services Councils can play an important role in assisting complainants at each stage of the above process. In circumstances where patients or clients request support or assistance in making a complaint they should be recommended by HPSS staff to contact their local Health and Social Services Council.

Time Limits for Making a Complaint

Normally a complaint must be made within six months of the incident (or within six months of the date of discovering the problem, provided that this is within twelve months of the incident) HSS Executive guidance states that discretion to vary this time limit should be used “flexibly and with sensitivity”.

Disciplinary Matters

As noted above disciplinary matters are considered separately from the complaints procedure so although disciplinary action may be taken following a complaint that is pursued under different procedures. Where a convenor considering a request for independent review believes the behaviour of the staff involved is so seriously deficient as to merit immediate (that is prior to full complaints investigation) disciplinary investigation he or she should refer the case to the relevant Board’s reference committee.

The Northern Ireland Commissioner for Complaints

The Northern Ireland Commissioner for Complaints (also known as the Ombudsman) is also able to consider complaints about family health services and also issues of clinical judgement. However complaints may be passed to the Ombudsman’s office only when all other avenues of complaint have been exhausted.

The Children Order Complaints System: characteristics and purpose

Despite their important role in child protection especially in the residential and foster care sectors, complaints procedures within Social Services are a relatively new phenomenon, (Aiers and Kettle 1998). They note that the development of such procedures followed on the string of revelations throughout the 1980’s and 1990’s about the abuse of children and young people in residential care institutions, such as Kincora in Northern Ireland (1980), Leeways in Lewisham (1985), Pindown in Staffordshire (1990), Ty Mawr in Wales (1991), children’s homes in Leicestershire

(1992), Castle Hall in Shropshire (1992) and in Islington, Clywd and Cheshire children's homes (1995, 1996).

As a result of the scandals revealed by these inquiries during the 1980's, children's advocacy organisations such as *The National Children's Bureau, A Voice for the Child in Care* and the *National Association for Young People in Care* were active in promoting awareness within professional circles of the need for young people 'in care' to be listened to. In the professional and political debate during the passage of *The Children Act (1989)* there was strong pressure on government to incorporate a statutory complaints procedure. The government however was indifferent to the idea of incorporating complaints in *The Children Act* although in the end it included a one-word referral to complaints within the representations section thus:

Every local authority shall establish a procedure for considering any representations (including any complaint) made to them...
(*Children Act 1989, S26 (3)*)

In Northern Ireland, the *Children Order (1995)* similarly requires Trusts, voluntary organisations and privately run children's homes to establish procedures for considering representations and complaints about children's services. The Children Order Guidance and Regulations note that the procedure should cover all representations or complaints about a Trust's actions in exercising its functions under *Part IV of The Order* concerning 'Support for Children and their Families'. Voluntary organisations and privately run children's homes are also required to set up representation procedures to consider representations or complaints made by or on behalf of children accommodated by them but not looked after by a Trust.

The Problem Solving Stage

As in the Wilson Procedure, complaints made under the Children Order are preferably resolved locally. This is referred to as the "Problem Solving Stage".

Investigation Stage

Unresolved complaints may proceed to a formal investigation. The complaint should be registered with the designated complaints officer in the relevant Trust and an investigation should take place. A person who is not a member or an officer of the trust must take part in the discussion and consideration of such representations or complaints and in determining what action should be taken. If the complainant is not satisfied with the outcome of this investigation then they can request that the complaint be referred to a Panel. This Panel is made up of one independent member and two officers or Directors of the Trust. Complaints which are unresolved at this stage may be referred on to the NI Commissioner for Complaints.

The principal difference between the Children Order and the Wilson systems is that in the Children Order, the panel/review stage is the responsibility of the Trust where the complaint arose rather than the local HPSS Board as in the Wilson system. The Children Order system may thus be characterised as less independent than the Wilson system which itself has been heavily criticised for lacking independence.

The Participation of Children and Parents in Social Care Practice.

The Children Order Guidance and Regulations calls for the informed participation of the child and parents in decision-making about services for the child although it recognises that sometimes this will not be achieved. It emphasises that the complaints procedure should involve independent persons and should ensure that the child, their parents and others significantly involved with the child have confidence in their ability to make their views known and to influence decisions made about the child's welfare. The Guidance and Regulations go on to state that this independent person is not an advocate for the child nor an investigator, but rather his or her role is to provide an objective element in the Trust's considerations.

Who May Take a Complaint?

Trusts are required to check with the child (subject to his or her understanding) that a complaint submitted on their behalf by an adult or other person reflects their views and that they wish the person submitting the complaint to act on their behalf. Yet even where it is decided that the person submitting the complaint is not acting on the child's behalf, that person may still be eligible to have the complaint considered under the procedure. The Trust has discretion to decide in cases where eligibility is not automatic whether or not an individual has sufficient interest in the child's welfare to justify his own representation being considered by it (Article 45 (3)(e)). Trusts are exhorted to have a clear policy on this matter which “takes account of the Children Order's emphasis on participation in decision-making of all those persons who are significant to the child or can make a positive contribution to planning for the child's future”. Taking this into account it appears there may be potential for conflict with the Children Order's other assertions that the views of the child themselves be considered.

Complaints Publicity

In addition to advertising complaints procedures at HPSS venues and other public community venues, it is described as “good practice,” although not mandatory for Trusts to ensure that information on the representations and complaints procedure forms part of an information pack made available prior to a first review of a child's case or at the time a decision is issued in respect of approval of a foster parent.

Monteith and Cousins (2001) examined the case files of 399 Children under 5 in State Care in Northern Ireland and found that the social workers had sought the child's opinions about their case review's considerations in only 7.5% of cases. This may be a function of the young age of the children involved in this particular study. However relevant adults were not always provided with the chance to make their voice heard either. Parents and carers were provided with information leaflets on the complaints and representation procedure in only 19.3% of the 399 cases. This being the case it would seem likely that many children in state care and their families are unaware of the Children Order representations and complaints procedure.

Advocacy and Support

The Guidance and Regulations state that all the publicity material regarding complaints should present a positive view of the use of the procedure and should seek to counter fears that invoking the procedure will cause problems for a complainant in on going day to day contact with Trust staff. It is also recognised that some parents and most children will need advice and confidential support to make their representation or complaint, to pursue it, to understand the administrative process and to cope with the outcome. Trusts are required to offer such assistance and support or alternatively to give advice on where this may be obtained.

In the case of Children accommodated in residential care settings, if such children are to be confident enough to invoke the procedure they need to be sure that making a complaint will not rebound adversely upon them. The Guidance states that this *may* mean a person who has no line management or service delivery responsibility or involvement in the child's case should be available to work with the child in the matter of representation or complaint. However, it is left to individual Trusts to decide how this could best be arranged.

We recommend that independent advocacy and support be easily accessible to all children and young people in residential care.

Outcomes

The Guidance and Regulations expect Trusts to give “due consideration” to the findings of complaints and representation procedures but they are not bound to implement the findings or conclusions of such proceedings. They are however required to notify in writing to the person who made the complaint, the child (if he or she is of sufficient understanding) and anyone else likely to be affected by the Trust’s decision. However since the Trust is not obliged to carry out the recommendations of the panel for many children and their families taking a complaint under the Children (NI) Order procedures may ultimately feel like a fruitless exercise.

We recommend that Trusts should be required to implement the recommendations made under the Children Order complaints and representation procedure.

The Importance of Complaints Procedures for Children and Young People

Despite the limitations of the HPSS complaints procedures outlined above Aiers and Kettle (1998) remind us that there are four issues which demonstrate the importance of an effective complaints procedure. These are: protection, the right to be consulted, participation and improved service provision.

Protection

Establishing a channel for children and young people to express complaints about mistreatment in residential care may provide a safeguard against abuse, but complaints procedures alone can never constitute adequate protection. In an abusive setting it is likely that vulnerable and powerless residents will not be in a position to make use of such procedures although ex-residents may be better able to do so.

The formality of HPSS complaints systems means as Utting stated in his review of safeguards for children living away from home:

“Only a tiny proportion of complaints emanate from children.” (Utting, 1991: 31)

Nevertheless, having a complaints procedure is better than not having one and the importance of establishing a climate and ethos of care in which a complaints system can operate effectively must be recognised. In addition, such systems are fundamental to implementation of the UN Convention on the Right to be consulted.

The UN Convention on the Rights of The Child

Article 12 of the UN Convention of the Rights of the Child establishes the centrality of the principle that children have a right to express their views on all matters of concern to them and that their views must be given due consideration appropriate to

their age and understanding. Historically this right has been ignored in both the private and public sphere in most societies Aiers and Kettle (1998). However, the existence of a child friendly representations and complaints procedure would at least be an acknowledgement of these rights.

Participation

Encouraging the participation of children and young people in their decisions about their care and treatment increases their self-esteem, autonomy, personal and social development and social integration (Aiers and Kettle 1998, Lansdown 1995). A complaints procedure alone cannot deliver all this, but in the appropriate care climate it can positively contribute to these goals for young people. Major barriers to children's meaningful participation in decisions about their own medical and mental health and social care remain however. Lewis and Lewis (1990) for example found that physicians' resistance together with parent's fears of losing control were significant obstacles to the participation of children and young people in their care and treatment.

Future Developments

The Northern Ireland Children's Commissioner

In Northern Ireland the representation of children should improve in the near future. In January 2001 the Office of the First Minister and Deputy First Minister announced that a Commissioner for Children for Northern Ireland would be appointed early in 2002. The intention is that the Commissioner will act as a voice for children and young people up to the age of 18, or up to the age of 21 in the case of looked after children or those cared for in the juvenile justice system. Consultation is underway at the time of writing on the precise nature and powers of the Commissioner. However it is proposed that the commissioner will have an important role in monitoring and reviewing organisations and ensuring that those with a statutory duty towards children discharge that duty properly. This includes ensuring that information relating to all aspects of service provision is accessible to children and young people. It is also foreseen that the Commissioner will be tasked with ensuring such organisations are accessible to children and can be understood by them. This has important

implications for Health and Social Services organisations especially in relation to their complaints handling and procedures.

It is proposed that the Commissioner for Children will work in partnership with other organisations wherever possible, through bridge-building, disseminating good practice, and promoting and encouraging dialogue. However, it is also proposed that this will be backed up with well-defined powers to ensure that the Commissioner can do his or her job effectively. The model which is under active consideration involves the Commissioner having the specific powers outlined in Annex 5.

It is difficult to precisely predict how the proposals for the Children's Commissioner will impact on HPSS complaints systems, however in the future when complaints concerning children are raised, it is clear that there is the possibility of the Children's Commissioner becoming involved.

3 THE METHODOLOGY OF THE RESEARCH

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The resources available for this permitted a multi-method approach comprising four main elements noted below, further details on each method follow later in this section.

- 1) Analysis of administrative data held by the Department of Health Social Services and Public Safety.
- 2) A survey by telephone and post of HPSS Trust complaints staff in Northern Ireland seeking information on how complaints by or about children and young people are dealt with (the results are reported in Sections 5 & 6 of this report)
- 3) A postal survey of potential child advocacy organisations to establish the availability of independent advocacy services for children and young people who may need them (results are reported in Section 8 of this report)
- 4) Semi-structured telephone interviews were carried out with lay people involved in the health and social services complaints in Northern Ireland (these are reported in Section 7 of this report)

It was not possible within the confines of the resources made available for the study to also interview children, young people and/or their parents who had made complaints although this would have provided a very important perspective on the issues involved. It would have been a costly and time consuming piece of research.

We recommend that such research should be undertaken as soon as possible by the Department of Health, Social Services and Public Safety or the regional NHS R & D Office as it would provide important baseline information for the new Children's Commissioner expected to be appointed in 2002.

Survey of HPSS Trust Complaints Staff

All 19 Trusts were phoned by a researcher and asked to post out a copy of their complaints leaflet(s). All Trusts responded within ten days. Questionnaires were then sent out on 31st May 2001 to 19 HPSS trusts (see Annex 1 for a copy of the questionnaire). Persistent and extensive follow-up calls were required for questionnaires which were not returned as requested at the end of July. Phone calls were made to each non-replying organisation at least once a week, sometimes twice. In five cases organisations claimed they had not received the questionnaire and repeat questionnaires were then faxed or emailed to the five Trusts concerned. By mid-September three Trusts had still not replied and a third copy of the questionnaire was sent to them again on 25th September. By mid-October, 17 out of 19 trusts had replied, a response rate of 89%. No questionnaires were received from Newry and Mourne and Armagh and Dungannon Trusts. See Table 4.1 for more detail on response rates.

Table 4.1. HPSS Trust Response Rates

	Community	Acute	Combined	Total
Number of Trusts contacted/issued with questionnaires	6	7	6	19
Number of Trusts responded as at mid October	4	7	5	16

The Advocacy Survey

Potential and actual advocacy organisations were identified from a mailing list supplied by The Children's Law Centre. 91 organisations (voluntary, public and private, see Annex 4) which might provide advocacy services for children, were written to and asked to fill in a short proforma and supply any relevant information on their organisation. A total of 36 organisations replied to this first letter giving a 39% response rate but after a follow-up letter was sent to the remainder on September 25th the response rate was boosted to 49 or 54%.

Key respondent telephone interviews.

Wilson System Complaints

The four Health Boards were very helpful in supplying names and addresses of independent panel members involved in the Wilson procedure. All fifty independent panel members involved in the Wilson Procedure within the four Boards were written to in August asking for their agreement to a telephone interview. Fifteen individuals agreed to be interviewed (a 36% consent rate) although subsequently only 12 were actually available for interview (a 24% participation rate).

Children Order Complaints

Trusts wished to first contact the individuals involved with their panels, to ask their permission before passing on their contact details. These thirty individuals were written to and six agreed to be interviewed (20% consent rate).

Five Trusts would not or claimed they could not identify the lay individuals used in their Children Order complaints system. The fieldwork process thus revealed a greater degree of secrecy and confusion surrounding the Children Order complaints system and procedures compared with the Wilson system predominantly used by and for adults.

In total 18 interviews were held with key informants involved in either the Wilson or the Children Order HPSS complaints systems. These included lay panel members, panel chairs and Board convenors.

We recommend that all Trusts should be required to have readily accessible lists of those involved in their complaints procedures and should publish in their Annual Report the identity of lay persons involved with the Trust's complaints procedure.

4 ADMINISTRATIVE STATISTICS ON CHILDRENS COMPLAINTS IN NORTHERN IRELAND

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The previous section of this report noted that the formality of both the Wilson and the Children Order complaints systems may deter most dissatisfied children and their parents from making HPSS complaints. Nonetheless as this section will show, a substantial number of complaints are made each year. In the year January to December 2000 Department of Health Social Services and Public Safety statistics show that most HPSS complaints were made through the Wilson rather than the Children Order systems. Complaints by or about children may occur under any of the programmes of care except for that of 'Elderly Services'. However the Programmes of Care most likely to have a higher proportion of complaints concerning children are Family and Child Care Services followed by Maternal and Child Health. These accounted for 320 (8.1%) and 207 (5.3%) respectively of 3928 recorded complaints. (See figure 4.1 overleaf).

It is not possible from Departmental statistics to ascertain how many complaints outside the Family and Childcare programme concerned the treatment of children and young people. However, children and young people under the age of 18 make up 28% of the population of Northern Ireland (Switzer 1997) and must be significant users of, for example, services in the acute and primary health programmes of care.

From January to December 2000 the subject which gave most cause for complaint was the quality of patient treatment and care, (see figure 4.2) which accounted for 739 complaints (18.8%); this was followed by 522 complaints (13.2%) about staff attitudes and behaviour and 319 (8.1%) about communication and information to patients. A total of 91 (2.3%) complaints were classified as "Children Order Complaints" however there would appear to be some discrepancy in the Department's data on this point in that there were 98 Children Order complaints listed in the Family and Childcare programme of care (see figure 4.1)

January-June 2001

For the half-year January to June 2001 there were 2142 complaints in total with 135 (6.3%) of these under the Family and Childcare Programme of Care and 117 (5.5%) under Maternal and Child Health. (Table 4.1)

Table 4.1 Numbers of recorded complaints, N. Ireland January to June 2001

	PROGRAMME OF CARE	Number of Complaints for Quarter Ending March 2001	Number of Complaints for Quarter Ending June 2001	TOTAL	
				Number	%
	Acute	604	555	1159	54.1
2	Maternal & Child Health	53	64	117	5.5
3	(1) Family and Child Care: Complaints under the Children Order	33	30	63	2.9
4	(2) Family and Child Care: Complaints other than under Children Order	33	39	72	3.4
5	Elderly Services	109	96	205	9.6
6	Mental Health	50	37	87	4.0
7	Learning Disability	23	24	47	2.2
8	Sensory Impairment & Physical Disability	71	76	147	6.9
9	Health Promotion & Disease Prevention	1	0	1	0.04
10	Primary Health & Adult Community	62	63	125	5.8
11	None (no Programme of Care assigned)	66	53	119	5.6
	TOTAL	1105	1037	2142	100

With regard to Subject of complaint, (Table 4.2) quality of treatment and care was again top of the list with 402 complaints (18.8%). A total of 58 complaints (2.7%) were listed as being “Children Order Complaints”. However once again there appears to be a discrepancy as records for the Family and Childcare Program of Care list 63 Children Order complaints for the same time period.

Table 4.2 Subject of complaints, N. Ireland January-June 2001

SUBJECT OF COMPLAINT	Number of Complaints for Quarter Ending March 2001	Number of Complaints for Quarter Ending June 2001	TOTAL	
			Number	%
Access to premises	6	6	12	0.6
Access to records (right of access)	0	4	4	0.2
Access to records (unavailability)	7	5	12	0.6
Admissions, delay/cancellations (inpatient)	67	42	109	5.0
Aids, adaptations and appliances	63	73	136	6.3
Appointments, delay/cancellations (outpatient)	54	70	124	5.8
Board Purchasing	0	0	0	0
Clinical diagnosis	29	31	60	2.8
Code of openness complaints	0	0	0	0
Communication/information to patients	85	83	168	7.8
Complaints handling	2	2	4	0.2
Confidentiality	4	4	8	0.4
Consent to treatment	1	1	2	0.1
Discharge and transfer arrangements	20	26	46	2.1
Hotel/support/security services	42	24	66	3.1

(Continued Overleaf)

Table 4.2. (continued) Types of complaints, N. Ireland January-June 2001

SUBJECT OF COMPLAINT	Number of Complaints for Quarter Ending March 2001	Number of Complaints for Quarter Ending June 2001	TOTAL Number %	
Independent sector services purchased by Trusts	0	0	0	0
Mortuary & post-mortem arrangement	8	0	8	0.4
Patients privacy & dignity	12	9	21	1
Patients property & expenses	13	8	21	1
Patients status, discrimination (e.g. race, sex age)	2	5	7	0.3
Policy & commercial decisions	21	22	43	2.0
Professional assessment	28	34	62	2.9
Staff attitude/behaviour	140	139	279	13
Transport, late arrival/non-arrival	41	22	63	2.9
Transport, suitability of vehicle	5	1	6	0.3
Transport, length of journey time	1	0	1	0.04
Treatment & Care (quality)	222	180	402	18.8
Treatment & Care (quantity)	57	76	133	6.2
Waiting lists, community services	40	32	72	3.4
Waiting time, outpatient departments	11	10	21	0.9
Waiting time, A&E departments	22	19	41	1.9
Waiting times, community services	10	8	18	0.8
Children Order complaints	33	25	58	2.7
Other	59	76	135	6.3
TOTAL	1105	1037	2142	100

For more detailed information on the number and nature of complaints involving children it was necessary to seek information directly from Trusts. This was done through a postal survey of Trust complaints staff (see Sections 4, 6 and Annex 1). Section 6 provides the findings of that survey and like this section, underlines that complaints by or about children are a very significant proportion of HPSS complaints.

5 FINDINGS TRUST COMPLAINTS PUBLICITY

5 COMPLAINTS PUBLICITY

Trusts are required to publicise their complaints procedures. All nineteen Trusts were phoned by a researcher using the contact number for their main switchboard and asked to post out a copy of their complaints leaflet(s). In most cases, the researcher was referred directly on to the particular office dealing with complaints within the Trust. In a significant minority (4/19) the call was transferred to a series of offices before finally reaching an officer willing to post out a complaints leaflet.

All of the Trusts issued their complaints leaflets within ten days of the query being received.

Leaflets were generally well printed using coloured ink on quality paper although in one case the 'leaflet' was only a photocopy of the actual leaflet and was difficult to read. Efforts clearly had been made by Trusts to avoid jargon and leaflets from two Trusts were labelled as "Plain English Approved". Eleven of the seventeen Trusts' Children Order or Wilson leaflets did not contain up-to-date contact numbers either for themselves or for Health and Social Services Councils. This represented a third of total leaflets being out of date in some significant way.

Overall the leaflets followed a similar format explaining the stages in the complaints process and giving details of contact details of complaints officers within the Trusts, the relevant Health and Social Services Council(s) and the Ombudsman. One Trust also sent a leaflet on a Lay Advocacy Service in their area.

Nine leaflets (all those specially targeted at children) concerning the Children Order complaints procedures included a tear-off proforma addressed to the relevant complaints officer and in some cases included pre-paid postage. This good practice could usefully be extended to the Wilson complaints system and to adults as well as children.

Although leaflets contained information on the stages of the complaints procedure and how to access the relevant people, there was very little information on how to actually frame a complaint such as what details to include etc. Inclusion of such guidance would assist complainants especially those inexperienced at dealing with public authorities, such as children and young people.

Boards and Trusts should provide Training to Trust switchboard operators to raise awareness of the relevant office number(s) to which to refer complaints related queries.

Leaflets should include guidance on the kind of information which should be included in a complaint letter or with a proforma and note that complaints do not have to be made in writing but can be made in person or by telephone.

The use of proformas and pre-paid envelopes currently in Children Order leaflets should be extended to Wilson system leaflets.

6 FINDINGS: THE POSTAL SURVEY OF TRUST COMPLAINTS STAFF

6 POSTAL SURVEY OF TRUST COMPLAINTS STAFF

Of the 19 Northern Ireland HPSS Trusts all of the 17 who responded to this survey provide information to the public on the Wilson complaints system. All do so through leaflets, and about half use posters. A quarter use other methods. Only two Trusts provide separate publicity on the Wilson system specially designed for children and young people.

Despite the requirements of Equality legislation, no Trusts provide special complaints information for children with disabilities. This group of children is disproportionately likely to be in foster care, and also disproportionately likely to be physically or sexually abused by adults related and non-related (see Sneddon and Monteith 1999 and Monteith 1999). Targeting of complaints information and assistance towards them is an important part of protection, empowerment and equality strategies.

One Trust indicated that it had plans to produce such information in the future for children with disabilities and adults with sensory impairments.

No Trust has provided complaints information specifically designed for children and young people from non-English linguistic backgrounds although two Trusts have plans to do so in the future.

Nine of the fourteen relevant Trusts have however produced separate publicity about the Children Order complaints process for children although in only two cases is there specially targeted material for children with disabilities and in only one case for children from non-English linguistic backgrounds.

Most Trusts (14/17, 82.4%) reported use of a definition of a complaint which accords with that laid down in legislation and statutory guidance. That is, that a complaint is an expression of dissatisfaction which requires a response. It is of concern, however, that two Trusts stated their definition of a complaint 'varies' and that one could not provide a definition.

The Department of Health, Social Services and Public Safety should remind all HPSS organisations of the official definition of a complaint.

Only three of the fourteen relevant Trusts have material about Children Order complaints targeted at and designed for children and young people in residential care and three have this for children in foster care.

We recommend that the Department/SSI should set a date by which all Trusts to whom the Children Order is relevant should be required to have produced complaints material targeted at these most vulnerable groups viz. children in residential care; children in foster care; children with disabilities whatever their care arrangements.

Complaints administration generally involves few staff in Trusts. In most cases it involves 5 staff or less (See Table 6.1).

Table 6.1. Number of Trust staff involved in complaints administration July 2001

Number of staff	TRUSTS	Percentage %
1	1	5.9
2	2	11.8
3	5	29.4
4	3	17.6
5+	2	11.8
Varies and Don't Know	4	23.5
Total	17	100

In almost all Trusts, the Complaints Office is not located in areas accessible to service users, but instead are in administrative and/or Headquarter floors and buildings.

We recommend that Complaints Offices be made more visible and accessible to service users.

All seventeen Trusts reported that they provide training to staff in the operation of the Wilson Complaints System, and twelve of the fourteen relevant Trusts had done so in respect of the Children Order. Training is usually within the induction programme for

new staff but may be included in other courses periodically on an ongoing basis for other staff. The only staff group for whom some trusts reported some difficulty in the provision of training was consultants.

Seven Trusts reported difficulty in dealing with complaints made by or on behalf of children and young people with four reporting difficulty in understanding and operating the distinction between Children Order and Wilson System complaints. Some cases originally dealt with under Wilson have been subsequently redirected for handling under the Children Order. Just under a third (5/17 or 29.4%) reported difficulties in dealing with children and young person’s complaints due to differences between parents, clinicians and practitioners for example in cases where there is a suspicion of abuse or neglect.

Table 6.2 DIFFICULTY DEALING WITH COMPLAINTS

TRUSTS	Number	Percentage %
Reporting difficulty in dealing with complaints made by or on behalf of children and young people	7	41.2
Reporting difficulty in understanding and operating the difference between Children Order and Wilson system complaints	4	23.5
Reporting difficulty in dealing with children and young person’s complaints due to differences between parents, clinicians and practitioners	5	29.4

Trusts have responded differently to the introduction of the Children Order procedure to run alongside the Wilson system. At least one Trust automatically routes complaints involving or by children down the Children Order route. While most did not take this course of action many Trusts indicated that they would welcome guidance on how to decide which route was appropriate for complaints involving children. So long as this uncertainty remains, delays and inequities in the handling of complaints by or about children will remain. Delays resulting from administrative uncertainty may lead to children being put at risk.

We therefore recommend that the Department clarifies the guidance about when to use which complaints system.

Trusts found the Children Order system particularly difficult to operate. Problems reported included difficulty in recruiting appropriate persons, difficulty in recruiting lay members for panels, gaining the co-operation of staff about whom the complaint is made and the difficulty noted above of establishing whether complaints fall under the Children Order or the Wilson systems.

Just over a third (6/17, 35.3%) of Trusts said they provided special support to children and young persons in bringing forward their own ‘Wilson’ complaints and half (7/14, 50%) reported they do so in relation to Children Order Complaints. However only one Trust provided a lay advocacy service for children and young people, three offered the services of a social worker and three had a complaints administrator who specialised in children’s complaints. Neither social workers nor Trust administrators are likely to be regarded by children and young people as independent advocates.

Table 6.3 SUPPORT PROVIDED TO CHILDREN

TRUSTS	Number	Percentage %
Providing special support to children and young persons using:		
? Wilson Complaints	6	35.3
? Children Order Complaints	7 (of 14)	50%
Providing a lay advocacy service for children and young people	1	5.9
Providing the services of a social worker	3	17.6
Providing complaints administrators trained in dealing with children’s complaints	3	17.6

Just under half of Trusts (7/17 or 41.2%) reported that external advocacy organisations usually of a private legal type have been involved in children’s Wilson cases and the same applied in respect of Children’s Order complaints cases. In four cases one of the four Health & Social Services Councils was named.

Over half of Trusts (10/17 or 58.8%) reported that when an adult makes a Wilson complaint about the treatment or care of a child or young person, complaints’ administrators seek to determine the views of the child involved and whether these are the same as or different to those of the ‘presenting adult’. Rather more (9/14 or 64.3%) did so in relation to Children Order complaints. **We recommend that in all cases of complaints involving a child Trusts should seek to determine the views of the child involved as well as those of the presenting adult.**

Table 6.4 EXTERNAL ADVOCACY/VIEWS OF CHILD SOUGHT

TRUSTS	Number	Percentage %
Reporting involvement of external advocacy organisations with:	7	41.2
? Wilson Complaints	7	41.2
? Children Order Complaints		
Reporting involvement of Health and Social Services Councils	4	23.5
Seeking to determine the views of the child involved and whether these are the same as or different to those of the adult making the complaint:		
? Wilson Complaints	10	58.8
? Children Order Complaints	9 (of 14)	64.3

All but one Trust reported having received complaint/s from an adult on behalf of a child or young person under the Wilson procedure for the year ending 31 March 2001.

Table 6.5 indicates the nature of the complaints received.

Only two Trusts reported having received complaints from a child or young person themselves under the Wilson system, although in one case the Trust could not provide any further details. Most Trusts do not record whether a complaint is by a child or an adult in the Wilson system.

Table 6.5 Nature of Wilson Complaints by/on behalf of children and young people, 2000/01, Northern Ireland.

Category	Wilson Complaints	
	Number	Percentage
Category 1 managerial and administrative issues ¹	64	26
Category 2 Clinical care and Treatment ²	154	62.6
Category 3 Other/ Unclassifiable	26	10.6
Category 4 Children Order Complaints ³	2	0.8
Total	246	100

Within the Wilson system most (62.6%) complaints made by or on behalf of children focused on issues of clinical practice and its adequacy or inadequacy. This is a higher proportion than when complaints are made by adults on their own behalf.

Recategorisation of Table 4.1 in Section 4 using the same categories as for Table 6.5 here above shows just 40% of adult complaints being category 2. The higher category 2 proportion in complaints about children's treatment may reflect the difficulties many parents have in relinquishing their decision making and protective roles in

¹ For example: access to and availability of records, openness and communication and complaints regarding handling, transport, discharge and transfer arrangements, confidentiality, waiting lists and time, access to appliances, aids and premises, waiting lists, waiting times.

² For example: professional assessment, clinical diagnosis, patient's privacy and dignity, mortuary and post-mortem arrangements, consent to treatment, quality of treatment and care, staff attitudes, communication and confidentiality.

³ For example: complaints regarding residential/foster care, residence and access, adoption orders etc.

relation to their children as they have to do when their children are under the medical or nursing care of others. Alternatively it may reflect greater inadequacies in clinical practice in relation to children and young people than in relation to adults. This is a subject with considerable equality significance under the Northern Ireland Act's Section 75 provisions which would benefit from more in depth research in the future.

Table 6.6 Children Order Complaints by/on behalf of children and young people, 2000/01, Northern Ireland.

Type of Complaint	Number	Percentage %
Complaints made by children	54	51.9%
Complaints made by adults on behalf of children	50	48.0%
Total	104	100%

Most complaints (50/54 or 92.6%) made by children themselves under the Children Order were made by children in residential care. Only 4 (7.4%) complaints were made by children in foster care or children being looked after at home. The most common types of complaints from children were about the rules and regulations of the accommodation, for example, rules about bedtimes and about not being permitted keys to lock one's own bedroom.

The second most common type of complaint concerned the behaviour of other residents and the third the behaviour or attitude of care staff. Almost the same number of complaints as were made by children themselves as was made by adults on their behalf under the Children Order. The most common type of complaint by adults on behalf of children concerned professional practice and judgement in the decision making process; the second most frequent type of complaint was to do with staff attitude and behaviour.

It is notable that the focus of children and adult's complaints overlap very little. With children being mainly concerned about the here and now, the shape and texture of their everyday lives, while adult complaints seek instead to query the process and final decision made about a child's care placement. This difference underlines the importance of encouraging children and young people in residential and foster care to speak up for themselves.

We recommend that the Department require Trusts to engage in six monthly pro-active complaints publicity and consultation programmes with children in either of these forms of care and especially with children in foster care, who are currently under-represented in complaints coming forward. In addition, the Department and the SSI/Board Children’s Home Inspectors should require Trusts to produce six monthly reports documenting the actions they have taken and the changes to service they have made in response to children’s complaints about residential and foster care. This should include the requirement that all such practice use disability sensitive methods and practices.

7 FINDINGS: THE PERSPECTIVES OF LAY PERSONS IN THE COMPLAINTS SYSTEM

7 FINDINGS FROM LAY KEY INFORMANTS

During September and October 2001, eighteen semi-structured interviews with key informants involved in the complaints process were carried out by telephone.

Interviews lasted between 15 and 35 minutes with the average being 25 minutes.

Interviewees included six panel members, six independent persons involved in the Children Order complaints procedure, three convenors of requests for independent review and three lay chairs. Thirteen of the respondents had been involved in complaints by or about children.

All of the interviewees had been involved with the complaints systems for a minimum of two years and the majority had been involved for four to five years. Three of the eighteen expressed disappointment that they had not been involved in many panel proceedings and had little contact from their Health and Social Services Board since being selected for panel membership.

The majority were satisfied with the amount and quality of training they had received. However a few felt that issues such as ethics should be dealt with as well as legislation and complaints procedures. 'Independent Persons' (the term for lay people involved in the Children Order system) were the only informants who had had training which dealt with handling complaints made by or on behalf of children. For the most part, they were individuals who had had considerable experience working with children and young people in their professional lives for example as social workers or counsellors. Lay people involved in the Wilson system had different backgrounds usually not involving work with children but had not received advice or guidance on dealing with complaints involving children.

Most interviewees were satisfied with the decision-making process involved in the complaints procedures formal stages. However, the independent persons working with the Children Order procedures were much more likely than those involved in the Wilson system to express dissatisfaction with this. Two informants mentioned the "club-like" atmosphere within Trusts and the difficulties for them as "outsiders" in

getting their views across. One independent person spoke quite openly about their belief that their opinions were being suppressed.

All of the interviewees felt that the system worked well in making staff accountable for their actions, as one interviewee commented:

“It would certainly keep me on my toes anyway!”

Two informants remarked that: *“People don’t complain enough”*. One went on to remark that even in her everyday life she heard stories which were appalling and that although a lot of people do not like to complain about their care or treatment when they know staff are overworked and services are underfunded, *“Making a complaint can help someone else in the future and stop them going through the same thing. It can improve the service for everybody”*.

The majority of informants felt that appropriate recommendations were being made as a result of complaints. However they were considerably less sure about whether this actually led to improvements in services as most received very little feedback on this. One panel member went so far as to say: *“Sometimes it seems that reports just vanish into a black hole”* another remarked *“ It’s hard to know if our findings are carried out at all.”*

Several interviewees remarked that it was difficult for the process to be seen as independent if review panels and interviews with complainants and/or those complained about were held on Trust or Board property. A number also commented that if they had been employees of a Trust or Board in the past or had a professional background in Health or Social Services, they might not always be perceived by complainants as entirely independent themselves.

One very serious issue has arisen over the subject of indemnity for independent persons involved in the Children Order complaints procedure. One interviewee explained that in return for a Trust’s insurance and indemnity being extended to cover independent persons, the Trust had taken the view it had a right to examine reports produced by the independent person so as to ensure that nothing was contained therein which might prove damaging to the Trust in the event of subsequent litigation.

If Trusts or Boards are permitted to have such a right, independent persons could clearly no longer behave as independent persons. Furthermore, bringing a complaint through the Children Order process may end up being detrimental to complainants interests.

As noted above, thirteen of the interviewees had been involved in complaints involving children. In only one case (involving a child in residential care) was the child the complainant. In all other cases the complaint was made by an adult on the child's behalf. The majority of informants felt that a child's best interests could be adequately put forward by an adult acting on their behalf although one remarked that while a lot of individuals may have a say in a child's particular case "*People do not always have the best interest of the child at heart and a balance must be struck between peoples' rights and the protection of the child*".

Protecting the child was certainly uppermost in most interviewee's mind. Only three of the informants could give examples of instances when children's own views on complaints concerning them were actively sought. Interestingly all of these reported that the process had been successful even when the children were as young as nine or ten, or in (in one case) had a learning disability.

Two informants commented on the number of "professional complainers" they had come across in their experience of the complaints system. Two went on to comment on the danger of malicious complaints being made by children or young people – in particular with regard to complaints of abuse. One interviewee believed that some children were "accomplished liars".

All of the interviewers felt comfortable that young people of sixteen and over were able to give evidence on their own behalf but most had concerns about children who were considerably younger than this, although two noted the "streetwise" and "clued-up" nature of some quite young children. On the other hand, one interviewee believed that evidence given by minors should be considered in the same light as that given by the mentally infirm.

A number of suggestions were made in order to make it easier for children to give evidence in complaints concerning them. These included specially trained interviewers and review panels consisting of people with experience of working with children, interviews being carried out in an environment familiar to the child and the use of video evidence. As one interviewee remarked: *“It is hard enough for an ordinary person to get up in front of a panel, never mind a child”*.

Complaints staff and lay persons need training both to recognise the importance of children’s own views and to help them exercise their rights to express these views.

Panel working methods should be modified where appropriate to create an environment comfortable for the child and this may include the availability of an interviewer experienced in working with children. Lessons might be learned from the Northern Ireland Courts Service which affords child witnesses special consideration. Live television links have been installed in certain court venues and in certain circumstances children in abuse and violence cases are able to give their evidence from a private room without having to enter the courtroom.

Review panels and interviews should be held off Trust/Board property.

The Department of Health, Social Services and Public Safety should immediately provide all lay persons involved in the HPSS complaints system whether Wilson or Children Order with appropriate indemnity on behalf of all HPSS Trusts and Boards.

The role of lay persons needs to be clarified and enhanced. The Department should also reissue guidance to Trusts stressing the importance of their respecting the independence of lay persons.

Feedback on the outcome of complaints to lay persons in both Wilson and Children Order complaints should be improved.

**8 FINDINGS: AN OVERVIEW OF
ADVOCACY SERVICES FOR CHILDREN IN
NORTHERN IRELAND**

8 ADVOCACY SERVICES

Section 2 noted that it may be difficult for children and young people to use the HPSS complaints system effectively. Lay advocacy services may help children and young people to do so especially those children and young people without the support of their 'natural' families. In order to determine the range of lay Advocacy services potentially available to children within Northern Ireland, a survey was carried out of 91 organisations (voluntary, public and private) identified from a mailing list supplied by The Children's Law Centre. (See Annex 4) This cannot be claimed to be an entirely comprehensive list of all organisations offering advocacy within Northern Ireland. However it is a representative of the kinds and broad numbers of organisations that offer these kinds of services. Each of the organisations was asked to fill in a short proforma (see Annex 3) as well as supply any other relevant information on their organisation. There was a total of 49 out of 91 organisations who replied giving a 53.8% response rate.

Organisations used a variety of terms to describe the services they provide; for example advocacy, representation, counselling, advice, support, training, education and information. Only 7 (14.3%) of the 49 responding organisations used the term advocacy in their literature to describe the type of services they provide. Of these, one was a solicitor in private practice while the other 6 were child centred voluntary sector organisations, whose main focus was child protection issues.

Nearly a third of the responding organisations (30.6%) described themselves as providing representation for children. These primarily consisted of solicitors but also some HPSS Trusts acting on complaints lodged by an adult on behalf of the child or young person.

In some cases neither of the terms representation nor advocacy were used, but organisations stated that they worked for children and young people on various issues.

Over a fifth of responding organisations (22.4%) described counselling as part of the services they provide. Whereas 32, nearly two-thirds, (65.3%) provide advice and

most also provide support to clients. The issues usually addressed by these services are allegations of abuse against carers or families or educational issues.

Over half of responding organisations (53%) stated that they provide training and/or education as part of their organisation's remit. 12 of these organisations (24%) also provide information to their client base.

19 organisations (38.7%) currently provide advice and/or support in relation to complaints involving children's treatment within The Health and Social Services while a further 10 organisations i.e. 29 of them had done so in the past.

When asked to explain in a little more detail the type of complaints dealt with, a number of common themes emerged. Complaints primarily focused on children's treatment in 'public' care, the type of care accommodation provided the inability of Trusts to meet a child's needs as identified within their care plan, complaints against personnel in particular social workers, lack of resources, delays in services, lack of participation of children in decisions regarding their future as well as how children's opinions are ignored. Newpin summed up the latter theme when they said the advice they gave dealt with "how children are ignored or spoken to disrespectfully that is with a total disregard for or lack of understanding of the child's feelings". This is a recurring theme that adults complaints and worries are addressed but that child's opinions are rarely sought.

Overall, these results demonstrate that there is an emphasis towards child protection and education services in advocacy work in Northern Ireland.

Each Health and Social Services Council should appoint/designate one of their officers to work specifically with children and young people in the HPSS, to liaise with the non-statutory organisations doing likewise and to liaise with and advise The Children's Commissioner on HPSS complaints. All organisations, statutory and non-statutory, providing support and advocacy for children and young people should seek to work with children and young people in such a way that

they challenge the culture prevalent in Northern Irish society generally and the public services in particular that adults ‘speak for’ children and young people.

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9 REFERENCES

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ANNEX 1

THE TRUST POSTAL QUESTIONNAIRE

ANNEX 1

CHILDREN AND YOUNG PEOPLE AND COMPLAINTS SYSTEMS IN THE NORTHERN IRELAND HEALTH AND PERSONAL SOCIAL SERVICES

This questionnaire is divided into two sections, the first deals with complaints made **by or on behalf of children and young people under the Wilson complaints** procedure introduced in 1996. The second section deals with Complaints made **by, or on behalf of children and young people under the Children (NI) Order 1995**.

For the purposes of this questionnaire a child or young person is defined as a person under the age of 18.

All questions pertain to the year ending March 31st 2001

Section 1: WILSON PROCEDURE COMPLAINTS

(a) Publicity

1.1 How are complaints procedures publicised in your Trust area?

1.2 Is there separate publicity material specifically designed for children and young people?

YES NO

If YES then please describe

1.3 Is there separate publicity material designed for children and young people with disabilities?

YES NO

If YES then please describe

1.4 Is there separate publicity material designed for children and young people from ethnic or linguistic minorities?

YES NO

If YES then please describe

(b) Organisational Issues

1.5 How many Trust staff are directly involved in the complaints procedure?

1.6 How much funding does the administration of the complaints procedure require per annum?

1.7 In which part of the Trust's organisation is the complaints office located?

1.8 Does the Trust provide any training generally to Trust staff about how to deal with complaints?

YES

NO

If YES then please describe

1.9 Are there any particular difficulties in dealing with complaints made by or on behalf of Children and young people?

(c) Advocacy

1.10 Does the Trust provide any special support to children and young people in making their own complaints or to represent children throughout the complaints procedure if adults are making complaints on their behalf?

YES

NO

If YES then please describe

1.11 Do any external advocacy organisations get involved in children's cases in the complaints procedure?

YES

NO

If YES then please give their names and describe their role

1.12 When adults approach the Trust with complaints about the treatment or care of children and young people, does the Trust try to distinguish between the children's views and needs and those of the adults in pursuing the complaint and in defining what the issues of the complaint are? And if so how?

(d) Complaints Statistics

1.13 For the year **ending 31st March 2001** Please give details of the number of complaints made by or on behalf of children and young people resolved at each of the following stages. *In each case please distinguish between complaints made by children and young people themselves and those made on their behalf.*

Number of complaints		Number of Complaints resolved informally through local resolution		Number of cases requesting independent review		Number of cases referred to independent review	
Made by children	Made by adults on behalf of children	Made by children	Made by adults on behalf of children	Made by children	Made by adults on behalf of children	Made by children	Made by adults on behalf of children

1.14 Please give details of the eventual outcomes of these complaints

Number of Complaints Upheld		Number of Complaints Partly Upheld		Number of Complaints Not Upheld	
Made by children	Made By adults on behalf of children	Made by children	Made by adults on behalf of children	Made by children	Made by adults on behalf of children

1.15 What is your Trust's definition of a complaint?

1.16 Please give details of the subject of complaints **made by or on behalf of children** received under each of the following subject headings during the year **ending March 30th 2001**

Subject of complaint	Number of Complaints
Access to premises	
Access to records (right of access)	
Access to records (unavailability)	
Admissions, delay/cancellations (inpatient)	
Aids, adaptations and appliances	
Appointments, delay/cancellations (outpatient)	
Board Purchasing	
Clinical diagnosis	
Code of openness complaints	
Communication/information to patients	
Complaints handling	
Confidentiality	
Consent to treatment	
Discharge and transfer arrangements	
Hotel/support/security services	
Independent sector services purchased by Trusts	
Mortuary & post-mortem arrangement	
Patients privacy & dignity	
Patients property & expenses	
Patients status, discrimination (e.g. race, sex age)	
Policy & commercial decisions	
Professional assessment	
Staff attitude/behaviour	
Transport, late arrival/non-arrival	
Transport, suitability of vehicle	
Transport, length of journey time	
Treatment & Care (quality)	
Treatment & Care (quantity)	
Waiting lists, community services	
Waiting time, outpatient departments	
Waiting time, A&E departments	
Waiting times, community services	
Children Order complaints	
Other/not elsewhere classified	

1.17 Is there anything else you would like to add about complaints involving children?

This section of the questionnaire has been completed by:

Name & Post (please print)

Address

Contact telephone number

Thank you very much for taking the time to complete this questionnaire. We appreciate it very much. The information that you have provided will be of great benefit to our research.

Section 2: CHILDREN ORDER COMPLAINTS

This section deals entirely with complaints made under the Children (NI) Order 1995 procedures

All questions pertain to the year ending March 31st 2001

(a) Publicity

2.1 How are Children Order complaints procedures publicised in your Trust area?

2.2 Is there separate publicity material designed for children and young people?

YES NO

If YES then please describe

2.3 Is there separate publicity material designed for children and young people with disabilities?

YES NO

If YES then please describe

2.4 Is there separate publicity material designed for children and young people from ethnic or linguistic minorities?

YES NO

If YES then please describe

2.5 Is there separate publicity material designed for children and young people in residential care?

YES NO

If YES then please describe

2.6 Is there separate publicity material designed for children and young people in foster care?

YES NO

If YES then please describe

(b) Organisational Issues

2.7 How many Trust staff are directly involved in the Children Order complaints procedure?

2.8 How much funding does the administration of the Children Order?
complaints procedure receive per annum? £

2.9 In which part of the Trust's organisation is the Children Order complaints office located?

2.10 Does the Trust provide any training generally to Trust staff about how to deal with complaints made under the Children Order?

YES NO

If YES then please describe

2.11 Which parts of the Children Order complaints procedure are particularly difficult to operate?

(c) Advocacy

2.12 Does the Trust provide any special support to children and young people to enable them to make their own complaints or to represent children throughout the Children Order complaints procedure?

YES NO

If YES then please describe

2.13 Do any external advocacy organisations get involved in the Children Order complaints procedure?

YES NO

If YES then please give their names and describe their role

2.14 When adults approach the Trust with Children Order complaints about the care of children and young people, does the Trust try to distinguish between the children's views and needs and those of the adults in pursuing the complaint and in defining what the issues of the complaint are? And if so how?

2.15 How does the procedure differ for complaints made under Children Order as opposed to complaints made under the Wilson system.

(d) Complaints Statistics

2.16 For the year **ending 31st March 2001** Please give details of the number of Children Order complaints made **by or on behalf of children and young people** resolved at each of the following stages.

Number of complaints	Number of Complaints resolved informally through local resolution	Number of cases requesting independent review	Number of cases referred to independent review
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Made by children	Made by adults on behalf of children	Made by children	Made by adults on behalf of children	Made by children	Made by adults on behalf of children	Made by children	Made by adults on behalf of children

2.17 Please give details of the eventual outcomes of these complaints

Number of Complaints Upheld		Number of Complaints Partly Upheld		Number of Complaints Not Upheld	
Made by children	Made by adults on behalf of children	Made by children	Made by adults on behalf of children	Made by children	Made by adults on behalf of children

2.18 What were the top three subjects of complaints made **by children themselves** (rather than adults acting on their behalf) under the Children Order **for the year ending March 31st 2001**?

Subject of Complaint	Number of complaints
1.	
2.	
3.	

2.19 What were the top three subjects of complaints **made by adults on behalf of children** under the Children Order for the year ending March 31st 2001?

Subject of Complaint	Number of Complaints
1.	
2.	
3.	

2.20 How many complaints were made concerning children and young people in residential care **for the year ending March 31st 2001?**

2.21 How many of these complaints were made by the children and young people themselves?

2.22 How many complaints were made concerning children and young people in foster care **for the year ending March 31st 2001?**

2.23 How many of these complaints were made by the children and young people themselves?

2.24 Is there anything else you would like to add about Children Order complaints?

This section of the questionnaire has been completed by:

Name & Post (please print)

Address

Contact telephone number

Thank you very much for taking the time to complete this questionnaire. We appreciate it very much. The information that you have provided will be of great benefit to our research.

ANNEX 2

TELEPHONE INTERVIEW SCHEDULE

INDEPENDENT REVIEW PANEL INTERVIEWS**TELEPHONE INTERVIEW SCHEDULE****THE PROCESS OF APPOINTMENT**

Interviewee Name

Date

Post

Area Served

How long have you been involved with the complaints system?

How did you first become involved? What was the process of appointment?

Did you receive any induction or training in preparation for your post?

- what form did this take?
- did any of this training relate to dealing with complaints involving children and young people?

EXPERIENCE OF MEMBERSHIP

What normally happens when a panel is established?

How would you describe your own role on the independent review panel/complaints system?

Could you tell me something about how the decision-making process of the panel works? E.g. do you consider that all members have an equal say and that everyone's opinion is of equal value?

Based on your experience of panel hearings/the complaints system, how would you assess the independent review process' performance in:

Ensuring a full and fair airing of issues

Very good good adequate poor very poor

Making staff accountable for their actions

Very good good adequate poor very poor

Making appropriate recommendations

Very good good adequate poor very poor

Provoking improvements in services

Very good good adequate poor very poor

Maintaining its independence

Very good good adequate poor very poor

(Probe further on responses to these questions)

COMPLAINTS CONCERNING CHILDREN

Have you ever been involved in a complaint that involved a child/young person?

Did this differ from complaints that involve adults?

Where there any special issues relating to the complainant's age and understanding?

*If the interviewee has not been involved in complaints involving children and young people, then does he or she think there **would** be any differences or special issues which could arise?*

Supplementary hypothetical question

How would you re-arrange the way a panel normally works in order to receive/hear evidence from a child (an under 16 year old) and again,
How would you re-arrange the way a panel normally works in order to receive/hear evidence from a child (regards a child under 12)?

How would you assess the independent review process/complaints system performance/potential in dealing with a complaint concerning a child/young person?

Very good good adequate poor very poor

How do you think the complaints system *in general* could be improved?

How do you think the complaints system could be improved in order to make it easier for children and young people to use?

ANNEX 3

THE ADVOCACY PRO FORMA

Name of Organisation:

Address:

Telephone Number:

Please describe your Organisation's Aims and Objectives

What sort of services does it provide?

Has your organisation ever provided advice regarding complaints involving children's treatment within?

- a) The Health Service YES NO
b) Social Services YES NO

If you have answered YES to either of these two questions please say a little more about what this involved:

Does your organisation work:

- a) Directly with children and young people YES NO
b) With Adults seeking advice/help on children's behalf YES NO

Please attach any other material concerning your organisation which you feel may be relevant

*Thank you for completing this form
Please return in the enclosed envelope to: The Children and Complaints Project,
Centre for Child Care Research, 5a Lennoxvale, BT9 5BY*

ANNEX 4

ADVOCACY ORGANISATIONS SURVEYED

LIST OF ADVOCACY ORGANISATIONS SURVEYED

QUEST Partnership for Social Work Education
Rafferty & Boyle
McClure & Co
Playboard
Include Youth
Council for the Homeless (NI)
NI Volunteer Development Agency
Crawford, Scally and Co
Voluntary Service Belfast
James H Rodgers & Co
Fostering Centre
Families in Contact
Extern
Interact
Falls & Hanna Solicitors
NI Women's Aid Federation
Hewitt & Gilpin
Greater Shankill Alternatives
Simon Community NI
Belfast Travellers Sites Project
Belfast Travellers Sites Project
Lower Falls New Start Project
NICIE
Pathways Project (BELB & Extern)
EJ Lavery & Co
McGrady Collins
Western Area Office Law Centre (NI)
Barr & Co Solicitors
The Greater Twinbrook & Poleglass Community Forum
Northern Visions
North and West Belfast Trust
Advice Support Worker
NIPPA
NI Anti-Poverty Network
Barnardos
Housing Rights Service
NI Guardian Ad Litem Agency
Russells the Solicitors
John Ross & Son
Craigavon and Banbridge H&SST
The Law Centre
Gingerbread NI
VOYPIC
Youth Justice Unit NIACRO
McCann & McCann
Belfast Education and Library Board
NSPCC
Save the Children Fund
Foyle Newpin
National Deaf Children's Society
Upper Andersonstown Community Forum
Craigavon Travellers Support Committee
Parents Advice Centre
Tara Counselling Centre
Child Care NI
BCM Quayside Project
MENCAP in NI
First Key
Carrickfergus Training Unit
Magnet Young Adult Centre
Youth Action NI
Westside Project (St Patricks Training)
South & East Belfast Children's Panel Pilot
Home Start Down Project
Southern Travellers Early Years Partnership
NI Children's Holiday Scheme
Belfast City Council
Wessex South Centre
NI Foster Care Association
University of Ulster
Citizen's Advice
Eastern Drug Co-Ordination Team
Cinemagic Film Projects for Young People
Down Lisburn Trust
Relate
EMBARC
Survivors of Trauma
SHAC housing Association
Irvinestown Youth Club
Children's Express
Fermanagh College
Northern Ireland Youth Forum
Cedar Grove Childrens Centre
Hilltop Children's Home
Donard King & Co Solicitors
NEELB
Travellers Movement (NI)
Glenmona Resource Centre
NI Council for Ethnic Minorities
Northern Ireland Hospice Children's Services
Belfast Central Mission

ANNEX 5

THE PROPOSED POWERS OF THE NORTHERN IRELAND CHILDREN'S COMMISSIONER

ANNEX 5 The Proposed Powers of the N.I. Children's Commissioner⁴

- ? Where the Commissioner believes that a public authority is acting in a way that is not compatible with the United Nations Convention on the Rights of the Child, or believes that existing policies, procedures and services affecting children are inadequate, the Commissioner could write to the authority recommending the actions he or she thinks the authority should take, and setting out the reasons for the Commissioner's opinion. The authority would be obliged to respond within a set time, detailing the steps it would take or, if it disagreed with the Commissioner, its reasons for doing so. If the Commissioner remained dissatisfied, he or she could make a report to the Northern Ireland Assembly.

- ? The power to call for persons and papers would ensure that the Commissioner has a right of access to general information and papers on legislation, policy, procedures and services; and also to specific information and papers, for example, details of a specific complaint which has been made, and how it was handled, including the outcome of any investigation. The Commissioner should only be allowed to have access to confidential information about children with the consent of parents and children where appropriate.

- ? The Commissioner could be given access to all public and private institutions for children. In using this power, appropriate safeguards would be required including the need to have due regard to the wishes and right to privacy of the children concerned.

- ? The power to assist children, including financially, in connection with legal proceedings in respect of alleged breaches of their rights in strategic or other appropriate cases, having due regard to the need to avoid unnecessary duplication.

⁴ From the Consultation paper on a Commissioner for Children in Northern Ireland
<http://www.allchildrenni.com/consultation/index.htm>

- ? The power to bring proceedings in his or her own right involving the law, policy and practice relating to the protection of children's rights generally, or where the Commissioner believes that a child's rights have been denied.

- ? The power to intervene as a third party in legal proceedings on any matter, or any proceedings in any court, tribunal or inquest involving law, policy or practice relating to children's rights in Northern Ireland.

- ? The power to act as an amicus curiae on any matter or any proceedings in any court, tribunal, or inquest involving law, policy or practice relating to children's rights in Northern Ireland.

In using any of the above powers, the Commissioner could be required to have due regard to the right of children to confidentiality, and to the rights of others, especially parents, affected by any action the Commissioner may take. Where there is a conflict between the rights of children and the rights of adults, the Commissioner could be required to give priority to the rights of the child. A series of sanctions are also being considered for those who might obstruct the Commissioner during the performance of his or her tasks.

