

Paula Loube, Mediator
Quality Response Coordinator
The Children's Aid Society of Brant

Mediation in Child Welfare Complaints Process

On December 1, 2006, new Client Complaint and Review Procedures were implemented for all Children's Aid Societies and at The Children's Aid Society of Brant, the Client Complaints Policy was reviewed and amended. Until that time, in my role as Executive Assistant I had responded to service complaints from clients and had made the appropriate arrangements for the internal complaint review process. The Executive Director wished to respond in a less litigious manner to the new complaints process (including any involvement with the Child and Family Services Review Board). The goal was to mediate, where possible, complaint calls in an effort to first address concerns with our management staff giving us the opportunity to solve the concerns where possible and reduce the extensive time involved once a complaint is in writing and the formal process has begun.

In 2007, in order to prepare for this position, I completed the Alternate Dispute Resolution; Applied Alternate Dispute Resolution and Advanced Alternate Dispute Resolution courses with the Stitt Feld Handy Group. In 2009, I completed the Family Mediation Skills: Theory and Practice Course with Dr. Barbara Landau. I am a member of the ADR Institute of Ontario.

Now, our Agency is the only one of the 53 Children's Aid Societies in Ontario to utilize a mediator for the complaints process. Most agencies utilize their legal departments, especially when meeting with a client and the Child and Family Services Review Board. Mediation training has been

utilized in all levels of the complaint process – handling client telephone calls, meetings with clients, meetings with the staff involved as well as complaints coming through our MPP's office and the Ministry. Sometimes you have as much difficulty "getting to yes" with staff as you might with complainants!

Client complaint calls are responded to in a modified mediation process. Many times, the client is quite angry or upset and you must set the tone by listening and responding calmly – actually allowing the client to feel a little more empowered towards resolution. Questions are asked to determine what resolution might be and later, with staff, discussion occurs to determine what kind of plan could be offered.

If the client is not before the courts and wishes to proceed in their complaint beyond a meeting with their worker and manager, they may access an Internal Complaint Review Panel. An impartial committee is formed comprised of a manager, director and board member – not currently involved in their case. As the facilitator of this level, the mediator can set the tone by allowing the client to tell their story and in so doing, identify their concerns and establish what resolution would look like. During the first year of the new process, this level was utilized successfully. Since that time, resolution occurs early as Managers and front line staff have become more open to suggestions that may resolve a complaint without compromising child safety.

If a complaint goes to the CFSRB (Child and Family Services Review

Board) I prepare the summary with the necessary information gathered by the Manager and caseworker and even at that point, mediation comes into play as we prepare for Facilitation with the Child and Family Services Review Board. We are usually aware of what the issues are and in preparation; we discuss possible resolution that does not interfere with child safety or risk.

At a Child and Family Services Review Board Facilitation Meeting, the complainant often leaves the meeting with more resolution than they anticipated. We have endeavoured to respond to human situations with more compassion and we are willing to consider options – of course – as long as child safety is paramount.

Workers and Managers do not like to be involved in the complaint process. It implies that they have not utilized their skills and engaged a client or that an extremely difficult client cannot be helped. I think that I can illustrate my point by the following quote from one of our workers – "Assessments/decisions/interactions with families involve so much more than the 'legal' aspects of what we do and while I have a great deal of respect for our team of lawyers, the reality is that it is often the 'other' factors that give rise to complaints.

As a worker, I am aware of the legal responsibilities that I carry and if I am not sure about something, I will ask for a legal consult. I take the legal rights of the families I work with very seriously even if they do not have a lawyer. However, it is the other factors such as mental health issues, conflicts

between family members, and sometimes even how I do my job that seem to have a greater impact on whether or not someone chooses to move forward with a complaint and I believe that mediation brings something to that process that is different from the legalities, you seem to recognize that there are times when we have to make a deci-

sion in order to ensure the safety/well-being of a child or to support a parent or family member that may then lead to a complaint. You are able to consider and assess all of the information and how it relates to the complaint. Lawyers may not understand how these factors interact to influence a situation. Just as I cannot know all the legal ins and outs of what I

do, lawyers cannot be expected to understand all the factors that influence and impact on our work.

One of the things about the complaint system that I have been concerned about is that workers could begin to make decisions differently in order to avoid getting a complaint. The reality is that workers worry about how that will affect them at work-if it will influence performance evaluations-or be held against them. Having a complaint made against you is very stressful but it cannot be a factor in assessment or planning with the family. Having someone that understands the human aspects of what we do is important in this process. ❖

Complaint Method	April 07 to September 07	October 07 to March 08	April 08 to September 08	October 08 to March 09
<i>MPP Office</i>	4	0	4	1
<i>Ministry</i>	4	3	1	2
<i>Direct Additional Complaint Calls</i>	5	11	13+	10+
<i>Written</i>	6	6	8	2
<i>Eligible Complaints</i>	3	3	2	1
<i>Resolved Prior to ICRP</i>	1	2	2	1
<i>Resolved at ICRP</i>	2			
<i>Resolved at CFSRB</i>	2	1	1 at hearing stage	2