

LEARNING BRIEF:

The WCCC's Complaints Mechanism

AUGUST 2022



**Commissioner
for Children**
OF THE WESTERN CAPE

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An important goal for the first term of office is to lay the foundations for the organisation — the policies and frameworks for operation.

June 2022 marked the 2nd birthday of the Western Cape Commissioner for Children (WCCC). An important goal for the first term of office is to lay the foundations for the organisation — the policies and frameworks for operation. The WCCC started with a focus on the investigations function by developing a complaints' mechanism, as the office received complaints and enquiries from the start. The Investigations and Advice Branch was the first operational unit established in the WCCC. The investigations team (the Head of Branch and two Children's Commissioner Officers) designed and trialed different complaints resolution approaches and systems in real-time. This has been characterised by frequent reflections and iterative thinking, building strong relationships with social sector departments and clients, and learning from other, more firmly established Ombudspersons for Children across the globe. This learning brief will take stock of the complaints' mechanism developed to date and reflect on the lessons learned for each stage of the complaints handling process.

Children Act 2 of 2019. The scope of complaints resolution must, however, be limited to matters concerning provincial organs of state and to services that affect the rights, needs, and interests of children. The WCCC's oversight parameters in this regard only extend to the Western Cape Departments of Cultural Affairs and Sport, Health, Education, and Social Development, and will not be considered for intervention by the WCCC, unless the WCCC has an existing relationship at the respective institution, where a lobbying strategy can be employed.

Complaints are received primarily from children as the Commissioner adopted a concerted child participation strategy. Children submit complaints during Community Child Rights Workshops, Child Government Monitor WhatsApp messaging, or children's consultations conducted via WhatsApp or in-person workshops. These complaints are presented by children as posters, drawings, poems, or text messages. All the inputs are recorded and analysed for themes and published in reports. The reports are then sent to the Heads of Departments for their response. The responses will be presented in meetings with children per municipal area visited. These complaints and enquiries have not been enumerated but they form the bulk of the complaints and enquiries received by the office thus far.

The Scope of the WCCC's Complaints Mechanism

Provision is made for a complaints mechanism to be established via the Western Cape Commissioner for

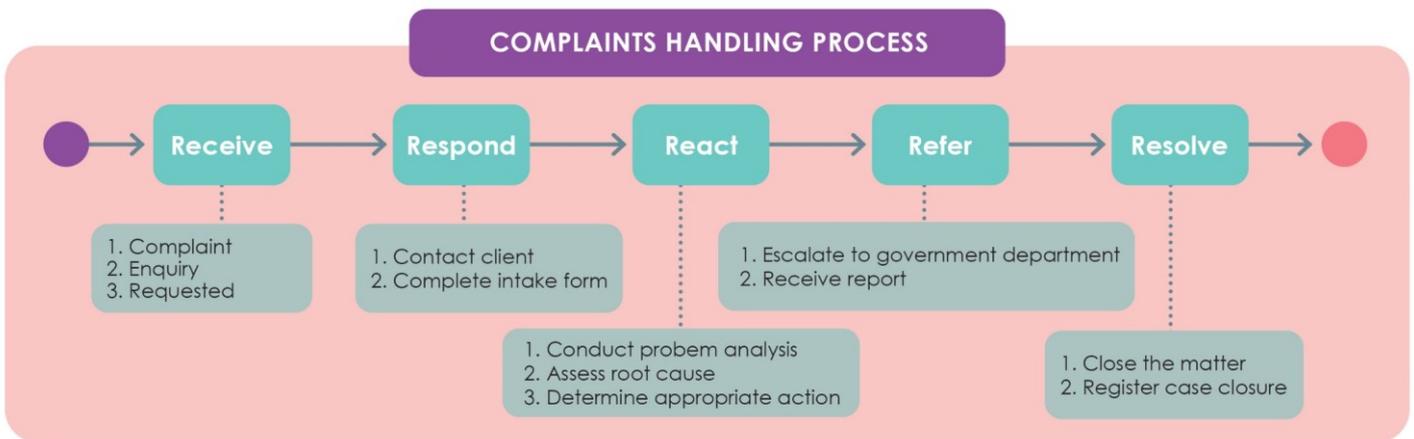
COMPLAINTS HANDLING PROCESS

Incoming complaints will be referred to the implementing department for escalation. The WCCC will not seek to resolve a complaint directly, this is the responsibility of the provincial government department in question.

COMPLAINTS HANDLING PROCESS

Complaints will be referred to the Head of Department. Only complaints related to the DCAS, DoH, DSD and WCED will be referred.





Individual complaints are resolved by the WCCC with a referral approach. The Commissioner and Head of Investigations refer an individual complaint to the Head of (the mandate-relevant) Department (HoD). The HoD considers the complaint and enacts the necessary procedures to resolve the case. The figure above summarises the scope of individual complaints resolution.

The referral approach is not uncommon. The Ombudsmen for Children in Finland, Norway and Sweden receives thousands of complaints per year, including from children, but typically they progress the cases by making referrals to other competent bodies, and by offering counselling and guidance. When there was a social worker on the WCCC team, it also offered containment and guidance. During a recent visit to the Mauritian Ombudsman for Children (OCO), the WCCC learned that a referral approach is also adopted by this institution. The OCO will refer complaints to government ministries when the issue must be resolved using the specialised services of police, social workers, psychologists, or lawyers; or if it is a service delivery matter; such as education delivery.

The WCCC has determined that there are three (3) levels to addressing complaints – level 1: understand the client's story; level 2:

understand the systems' story; level 3: systems analysis. Levels 1 and 2 form part of the individual complaints mechanism. Whereas, at level 3, the WCCC initiates an investigation of a research initiative to better understand the challenges for child rights realisation in a system.

To process individual complaints and enquiries in the WCCC, there are five main stages involved, namely: 1) receive, 2) respond, 3) react, 4) refer, and 5) resolve. The diagram below sums up the process implemented by the WCCC.

Stages of the Individual Complaints' Handling Procedure

1. RECEIVE

A key characteristic of a complaints mechanism is accessibility¹. Accessibility in this context, refers to the ability of all individuals, especially children, to easily access the complaints mechanism when they believe their rights have been violated. At the WCCC, individuals can easily file complaints using either WhatsApp, email, Facebook, Twitter, or completing a form on the WCCC website.

¹ UNICEF (2018). *Child Friendly Complaints Mechanisms*.

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In the WCCC, every complaint is responded to by the person it was directed to in the Office – most complaints are received directly by the Commissioner.

Individual complaints are captured, stored, and managed using an excel database; overseen by the Head of Branch. As casework and systemic inquiries increase, there is a **need for an efficient information management system** that can capture complaints directly and in real-time from all channels.

2. RESPOND

Another important characteristic of a complaints mechanism is responsiveness². This requires that every complaint concerning a child rights violation receives a response. This shows that the complaint has been taken seriously and acted upon – and if not, stating the reasons why and offering other avenues for redress or support relevant to the situation. In the WCCC, every complaint is responded to by the person it was directed to in the Office – most complaints are received directly by the Commissioner. Most complaints receive an acknowledgement of receipt within 24 hours if received during office hours.

3. REACT

Reacting to the complaint is guided by the mandate of the WCCC. After an acknowledgement of receipt, the client is referred to the CCO who manages the intake process. During the client intake process, the CCOs follow up with the client for more comprehensive information. A **dedicated, well qualified CCO is needed** to manage this procedure. All complaints are responded to in this manner if they meet the following criteria:

- It is linked to a provincial organ of state and it is one of the WCCC's oversight Departments, i.e. the Departments of Social Development (DSD), Cultural

Affairs and Sport (DCAS), Education (WCED), or Health (DoH);

- If the nature of the case is not an appeal of a decision made by a Department; or
- If the case is not under deliberation by a court or a tribunal;

The intake process allows the CCO to extract relevant information about the case and then determine the admissibility of the case; which is done together with the Commissioner and the Head of Investigations. This step also functions as a first and second-level investigation into the complaint. The CCO seeks to determine the reason for the complaint from the client's perspective and matches this to the requirements of the government department charged with the delivery of the service.

4. REFER

Once a complaint is formally processed, the admissibility of the complaint or enquiry must be assessed. In other words, on receipt of a complaint or enquiry, the WCCC must determine whether the complaint falls within the ambit of the institution's mandate. If deemed admissible by the WCCC, the complaint or enquiry will be referred to a provincial department.

Since 2020, most complaints have been referred to the Department of Social Development (58%) and the Western Cape Education Department (34%). For the DSD, complaints have primarily focused on **the child protection system**. Whereas for the WCED, most complaints deal with **educator conduct and learner support needs**.

² UNICEF (2018). *Child Friendly Complaints Mechanisms*.



5. RESOLVE

When a service delivery department receives a complaint, they are requested to investigate the nature of the matter and resolve it using their own internal procedures. Once this is done, the department will furnish the WCCC with a report detailing their actions, which will be assessed by the WCCC. The WCCC will consider a case resolved if it is satisfied that the procedure implemented by the Department is in line with standards of practice. The department is encouraged to provide a response on the matter directly to the complainant/enquirer.

Case resolution is treated differently by institutions depending on their capacity. In Mauritius, for example, the Ombudsman for Children (OCO) will consider a case resolved if there is evidence supporting the actions implemented by a respective government ministry. This is done by investigators personally assessing if a ministry's interventions were put in place by visiting the site and questioning witnesses. The capacity of the OCO's investigations branch includes 5 permanent investigators. Whereas, the WCCC's investigations branch is designed to hold 4 staff members – only 2 of these posts have been filled thus far. Once the WCCC's investigations branch is fully capacitated, it can consider more comprehensive approaches to case resolution.

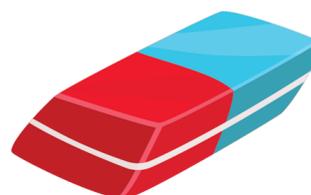
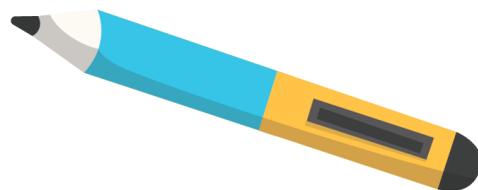
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Conclusion

In the first two years of office, the WCCC has created a complaints mechanism from the ground up. Using the referral approach, the investigations team has received **235 individual complaints/enquiries since its inception**. Going forward, there are many factors to consider for system enhancement. This includes, but is not limited to:

- **Design and implement an electronic information management system** to efficiently capture and track cases.
- **Consider more comprehensive case intake and resolution practices** when the Branch: Investigations and Advice becomes sufficiently staffed.
- **Develop more in-depth investigations or research** into the most common system challenges.





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