

Finding out about...

If you are unhappy with a service - what can you do?



A guide for parents and carers



Contents

If you are unhappy with a service – what can you do?.....	3
Try the informal approach first.....	5
Make a formal complaint (stage 1).....	6
Make a formal complaint to an overseeing body (stage 2).....	10
Complain to the Ombudsman (stage 3)	13
Get help from your local councillor, MSP or MP.....	15
Take legal action	16
Tell the press	18
Decide what outcome you want	19
Useful addresses.....	22

This booklet has been developed by the ENABLE Scotland Information Service and by the ENABLE Scotland Children’s Committee – a group of parents of children with learning disabilities – to let you know that other parents share your experiences and to put you in touch with services and support.

If you are unhappy with a service – what can you do?

It would be wonderful if every child and family got the support that they needed at the right time and in the way that helped most. Sadly, this does not always happen. Sometimes, in order to get the service you need or to assert your rights, you may need to raise issues with the organisations providing services to you and your child, make a formal complaint, or even take legal action.



Get support

Having to raise issues with organisations or make formal complaints, or even just thinking about what you want to do next, can feel daunting and you may feel quite isolated. Think about where you will get support – both emotional and practical – to work through this. Is there someone whose opinion you value and who you trust? It might be family, a friend, a professional or it might be a local support group.

Talk through the situation and get a clearer picture of what you want to do next and what your options might be. Be realistic about what’s achievable. Use your networks – especially other parents.

“I would never have thought about going to Wendy about this, as she’s Connor’s psychologist and it was really nothing to do with her, but she did give me a lot of support.”

Take time out

When things go wrong, parents can get very angry – often rightly so. But it is not always helpful to tackle things in that frame of mind. Anger might cloud your

judgement so you can't see the best step to take or you might do or say something that makes the situation worse rather than better. Sometimes it's good to pause for a moment.

When you are really angry or can't work out what to do about a situation, find some practical

way to clear your head, then look at things when you are more calm and relaxed. The way ahead might be clearer.

Steps you can take

There are lots of ways you can tackle things and try and get something changed. Not all of them will be right for your situation.

The following sections give a number of suggestions for steps you can take to tackle a situation or a poor service. You may want to try several of the steps at once. However, for some of the suggested actions you will need to have tried some of the other steps first – so the suggestions are in the most likely order that you might want to do things.

Before you take any steps, think about the outcome that you want – see pages 19 to 21.

Try the informal approach

It is best to try and resolve things at the lowest possible level and to give people a chance to put things right before taking things further up the organisation.

Often, problems or disagreements can be easily resolved by talking to the relevant person. This could be your child's headteacher, social worker or support worker. Give them a little time to sort the problem but keep a note of the dates of any telephone calls, conversations, meetings and what was discussed and agreed. Ask them to let you know when you can expect an answer from them.



Find out more about what you can do

If you are still not satisfied, you may want to get some advice at this stage and talk things through with someone independent. You could ask friends, your local support group or your local carer's centre. If possible, find out what other parents have done in this situation.

There may be a local advocacy organisation that could help you put your views across.

Meanwhile, get a copy of the relevant complaints procedure and read through it.

"I've found that professionals don't always look at things from my point of view. Sometimes, you just need to let them see things from a parent's perspective."

Make a formal complaint (stage 1)

Think about making a formal complaint in the following situations:

- if informal discussion and advocacy haven't worked
- if the matter is very important or urgent
- if you feel strongly that you have been badly treated.

Your complaint should be directed at the person or organisation responsible for the service that you are

unhappy about. All service providers (including your local authority or any voluntary organisations which provide services) must have an official complaints procedure which should tell you who to write to, how your complaint will be dealt with and how long it will take.

"I wanted to make a complaint about my child's education. I showed it to the Head teacher before I sent it in as I knew she agreed with me."

Ask for a copy of the complaints procedure and follow the guidance in it. It is always best to put a formal complaint in writing so there is a record of the complaint and a date. You will find it useful to refer to the records of meetings and telephone conversations that you kept at the informal stage. Keep your complaint factual and avoid getting emotional.



Keep a copy of the formal complaint for your own records as well. (See page 8 for more guidance on writing a letter of complaint.)

There are rules about complaints procedures. Complaints must be dealt with within a reasonable time (usually 28 days). Your complaint should not be investigated by the person you have complained about. If you are unhappy with the organisation's response to your complaint, there will be an appeals procedure that allows someone more senior in the organisation, or a panel of people, to look again at your complaint.

The complaints procedure has limitations. It may work well if a service that your child receives is unsatisfactory. But it may not work if you are unhappy about a decision that someone has taken about your case – eg about the amount of support that your child receives. Making a complaint will mean that the decision is reviewed but if the decision follows the organisation's policies, then it might not be changed.

Writing a letter of complaint

It is not always easy to know what to say.
See page 9 for a sample letter.

Make sure you include:

- The date (very important)
- Your name & address
- Brief details of your complaint.

If you want to send copies of any papers or previous letters then send photocopies – keep the originals.

Keep a copy of every letter you write and every reply you receive. Your local library should have a photocopier. You may want to keep everything together in a pocket folder or file.

Complaints do not always solve everything and you may want to take your complaint further, e.g. by involving your councillor, MSP, MP, Ombudsman or the Care Commission. But many of these people prefer you to have made a formal complaint first before they get involved.



Sample letter

Director of Social Work
Council Offices
Maintown,
Lowlands
ZZ34

25th April 2007

15 High Street
Maintown,
Lowlands
ZZ34 8YY

Dear Mr Smith

I am writing to complain that I am not receiving the respite service I was promised by your department.

I am a single parent. My 9-year-old son has quite severe behavioural difficulties, mobility problems, is doubly incontinent and still doesn't sleep through the night. Last year I asked for support from the social work department as I am exhausted caring for my son without a break.

Following an assessment, I was given a care plan that stated I would get a weekend break once a month. This service started in November 2006 and worked well for the first 2 months but since then the service has been utterly unreliable. If I cannot rely on the services being provided then it makes it very difficult for me to have a proper break. This is causing me even more stress and distress.

I enclose a copy of my assessment and care plan. I would like a meeting with you and some guarantee that I will get the service that I have been promised in the care plan.

Can you please look into this.

Yours sincerely

Mary MacDonald

Make a formal complaint to an overseeing body (stage 2)

If you have complained formally to the organisation that provides your child's services but are unhappy with their response, then you can take your complaint to the next stage by complaining to the body that oversees or inspects their work or services.

Care Commission

Most care services have to be registered with the Care Commission and are inspected by them. All registered care services have to meet national care standards. This includes child care agencies, children's care homes, child minders, early education and childcare, school care accommodation and short breaks and respite services.

If you are unhappy with a registered care service, you can complain to the Care Commission. It will not look into complaints that are more than 12 months old unless you have a very good reason for the delay. Make sure you get in touch with the Care Commission within this timescale if you want to take the issue further.

It will take the details and will want to know if you have already complained to the care provider. It is allowed to take between 14 and 28 days to investigate and then it will reply to you stating what it has found

out and what it expects to happen next. If you agree with this, you will be sent a Letter of Final Resolution giving all the details. The care provider will also get this letter and will be expected to act on whatever is in the letter. The Care Commission will monitor the care provider to make sure that this happens.

If you don't agree with the Care Commission's findings then you can ask for a review. If you are still not satisfied, then you can ask the Ombudsman to look into things.

You will find the contact details of your nearest Care Commission office on page 22.

Social Work Services

Many families receive or use services that are run by independent or voluntary agencies but which are funded and arranged by the local social work services department. If you are unhappy with a service, you can alert your local social work services department and ask them to look into your complaint. You do not need to wait until stage 2 to do this. You could contact them at the same time that you make a complaint to the service itself especially if the matter is serious. Most social work services departments will welcome feedback on the services that they commission and fund. Contact your local Care Manager or your social worker or the Director of Social Work Services for your local council.



Disability Rights Commission

The Disability Rights Commission (DRC) is an independent organisation that challenges discrimination against disabled people. It promotes the legal rights of disabled people under the Disability Discrimination Act. This covers employment, services, education, transport and housing. An important feature is that organisations, businesses and services have to make 'reasonable adjustments' to give disabled people equal access to premises, services and jobs. This can mean changing policies or the way services are provided.

Often, people are not sure whether something is disability discrimination or not. The DRC Helpline can give you advice and, in some cases, can help you to find a lawyer or pursue a case. In October 2007, the DRC will become part of the Commission for Equality and Human Rights.

Commission for Equality and Human Rights

The Commission for Equality and Human Rights (CEHR) is a new body that will promote equality and human rights and tackle discrimination on the grounds of disability, race, religion or belief, gender, age and sexual orientation. It comes into being in October 2007 and brings together the work of the existing commissions – the Disability Rights Commission, the Commission for Racial Equality and the Equal Opportunities Commission. It will have powers to take up human rights cases.

Complain to the Ombudsman (stage 3)

Ombudsmen are concerned with investigating maladministration by government departments and bodies. Before contacting the ombudsman you must have carefully worked your way through the local complaints routes open to you (eg the local authority complaints procedure or the Care Commission). If you have not, you will be sent back to try those first.

Scottish Public Services Ombudsman

The Scottish Public Services Ombudsman is responsible for the investigation of complaints from members of the public who feel that they have suffered injustice because of maladministration by the Scottish Executive and a wide range of bodies involved in Scottish affairs.

It can consider complaints about:

- Poor service
- Failure to provide a service
- Administrative failure
- Complaints about the NHS including hospital staff, GPs, dentists and other health professionals.

It will not look into:

- Properly made decisions that a public authority or someone providing services has a right to make even if you do not agree with the decision
- Complaints which you could take to court or an independent tribunal
- Personnel issues, such as appointments of staff, pay or discipline
- Most commercial or contractual matters;
- Services in a non-NHS hospital or nursing home, unless these are paid for by the NHS
- Complaints about UK Government Departments, such as HM Revenue & Customs and Department for Work and Pensions. In this case you must contact the UK Parliamentary Ombudsman.

"I was frustrated by the lack of response from my local council to my request for a direct payment to help pay for some care services. The Ombudsman looked into it and told the council to pay me the direct payment that I was eligible for."

UK Parliamentary Ombudsman

The UK Parliamentary Ombudsman will investigate complaints about UK government departments, for example the Department for Work and Pensions. See page 23 for contact details of the Ombudsmen.

Get help from your local councillor, MSP or MP

Some people would start here. Remember that these people have been elected to serve the interests of all their constituents. A sympathetic councillor or MSP or MP can be very effective in getting action from relevant departments. They can put pressure on departments to reconsider decisions and can ask questions in Council or in Parliament.

Bear in mind that they have different responsibilities and will not all be able to help with the same things.

Your local councillor – can help take up your case if it involves services run by or paid for by your local council. This includes schools, local transport, housing, leisure services, charges for local services, and social work services.

Your local MSP – can help take up your case if it involves something that the Scottish Parliament is responsible for. This includes health services, education and training, social care services, law and order, and public transport across Scotland.



Your MP – can help if it involves something that is the responsibility of the UK government in Westminster. This includes employment and welfare benefits.

Councillors, MSPs and MPs all have public surgeries where you can go and talk to them about any problems you have. Ask at your local public library for details of your councillor, MSP and MP and how you can contact them.

Your local council website may also have details of how to contact your councillor.

Take legal action

Many people do not want to take legal action. They may only want an explanation of what went wrong or an apology. In these circumstances it may not be worth involving a lawyer. However, if tackling things by yourself has not worked, you could take legal advice about your rights and any legal options open to you.

Some people worry that using a lawyer will make things worse. It might become too confrontational. Not all lawyers work like this. Many are skilled in mediation and can help get two sides talking to each other and resolving things. Sometimes a simple letter from a lawyer can result in action.

The law is a tool. A lawyer can tell you what your rights are and if anything can be done about it.

There are different legal actions that might be used depending on the circumstances of your case.

You may be able to sue the person or public body – for example if they were negligent or did not carry out their legal duties or if they broke a contract with you. You may be able to ask the court for an order against a public body to force it to carry out its legal duties. You may be able to ask for a judicial review where the court will decide if what the public body did was lawful.

A lawyer will be able to tell you what is possible and whether you might have a good case. For some legal actions, legal aid may be available. Make sure that you go to a lawyer that offers legal aid. If you have difficulty finding a lawyer, the Law Society of Scotland will be able to give you the names of a few law firms in your area. See page 23 for contact details.



Tell the press



Some parents enlist the help of the press to highlight their difficulties in obtaining services. An article in the press might get things done – no-one likes bad publicity.

But it may backfire. You must be careful not to disclose confidential information. If anything you say is untrue, you could be sued. You may find the publicity affects your personal life. You may make people very angry and it may make negotiations harder. You cannot guarantee that the press will report your story accurately.

Be sure you know what you are doing before you involve the press. Talk it over with someone first.

Decide what outcome you want

If you are still not sure what steps to take, think carefully about what it is that you want to change. If you are unhappy about a service your child receives, or if you feel they are not receiving a service they are entitled to, you have to decide what outcome you want and the best way of achieving this. For example you might want an apology, a different service, a change in policy or compensation.

Once you have decided what you want to achieve, it may be easier to see what steps or actions to take.

The following table gives some guidance.

Even when your complaint is successful you may be frustrated by the outcome.

"I complained about a staff member leaving children at risk. After pursuing this for a year I was simply told that the complaint had been upheld – but I never found out how she was dealt with."

Outcome wanted	Possible actions
<i>An explanation</i>	<ul style="list-style-type: none"> • Ask the person. • If they won't explain, complain
<i>An apology</i>	<ul style="list-style-type: none"> • Ask for one. • Complain to their organisation. • Go to the Ombudsman.
<i>Poor service to be improved</i>	<ul style="list-style-type: none"> • Complain to the service provider. • Complain to the local authority. • Complain to the Care Commission. • Go to the Ombudsman.
<i>A lack of services or a delay in providing services to be sorted out</i>	<ul style="list-style-type: none"> • Complain to the service provider. • Complain to the local authority. • Complain to the Care Commission. • Go to the Ombudsman. • Ask councillors/MSPs/MPs for help. • Take legal action.
<i>Compensation</i>	<ul style="list-style-type: none"> • Go to the Ombudsman. • Take legal action.

Outcome wanted	Possible actions
<i>The investigation of abuse, fraud or other criminal offences and the offender to be punished</i>	<ul style="list-style-type: none"> • Tell the police. • Complain to the alleged offender's organisation. • Notify their professional body.
<i>Confidential enquiry</i>	<ul style="list-style-type: none"> • Complain to the Care Commission. • Go to the Ombudsman.
<i>Publicity</i>	<ul style="list-style-type: none"> • Take legal action. • Tell the press.
<i>Review of a decision</i>	<ul style="list-style-type: none"> • Ask for one. • Complain. • Ask councillors/MSPs/MPs for help.
<i>Change in policy</i>	<ul style="list-style-type: none"> • Complain. • Ask councillors/MSPs/MPs for help. • Involve other parents and campaign for change. • Tell the press.

Useful addresses

Care Commission

Headquarters
Compass House,
11 Riverside Drive,
Dundee DD1 4NY

☎ 01382 207100
0845 6030890
(lo-call)

Fax: 01382 207236

🌐 www.carecommission.com

Central East Region

Compass House
11 Riverside Drive
Dundee DD1 4NY
☎ 01382 207200

Central West Region

4th Floor
No 1 Smithhills St
Paisley PA1 1EB
☎ 0141 843 4230

North Region

Johnston House
Rose Street
Aberdeen
AB10 1UD
☎ 01224 793870

South East Region

Stuart House
Eskmills
Musselburgh
EH21 7PB
☎ 0131 653 4100

South West Region

Princes Gate
Castle Street
Hamilton ML3 6BU
☎ 01698 208150

Law Society of Scotland

26 Drumsheugh
Gardens, Edinburgh
EH3 7YR
☎ 0131 226 7411
Email: lawscot@lawscot.org.uk

🌐 www.lawscot.org.uk

Disability Rights Commission

DRC Helpline
FREEPOST MID02164
Stratford upon Avon
CV37 9BR

Helpline:
☎ 08457 622633

Textphone:
☎ 08457 622644

🌐 www.drc.org.uk

Commission for Equality and Human Rights

Kingsgate House
66-74 Victoria Street
London
SW1E 6SW

🌐 www.cehr.org.uk

The CEHR will have an office based in Glasgow after October 2007.

Scottish Public Services Ombudsman

4 Melville Street,
Edinburgh, EH3 7NS
☎ 0870 011 5378
Fax: 0970 011 5379
Email: enquiries@scottishombudsman.org.uk

🌐 www.scottishombudsman.org.uk

UK Parliamentary Ombudsman

Millbank Tower, Millbank,
London, SW1P 4QP
☎ 0845 015 4033

Email: phso.enquiries@ombudsman.org.uk

🌐 www.ombudsman.org.uk



ENABLE Scotland is the country's leading organisation for children and adults with learning disabilities, their families and carers.

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Information Service open
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 **0141 226 4541** or

email: info@enable.org.uk

This is part of a series of information booklets for parents and carers. All of the booklets are available on the ENABLE Scotland website or from the Information Service.



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