

Advocacy Protocol

BETWEEN

The Ministry of Children and Family Development

AND

The Representative for Children and Youth

APRIL 4, 2011

The Representative for Children and Youth (RCY) and the Ministry of Children and Family Development (MCFD) are committed to promoting and supporting meaningful and effective advocacy on behalf of B.C. children and youth receiving government services.

Within their legislative mandates, they will work together to ensure that there are no barriers to the Representative's advocacy function and that both organizations help achieve the best possible results for children and youth in British Columbia.

This protocol is written for RCY and MCFD staff to clarify their roles regarding RCY advocacy services. The protocol applies to MCFD, including the regions, Delegated Aboriginal Agencies (DAA), provincial services and special needs provincial operations.¹

Advocacy

Advocacy ensures the rights, interests, voice and well-being of children and youth are respected and protected in relation to the provision of government services. Advocacy must be recognized and supported as a legitimate activity within the child and youth serving system. The key professionals in the lives of children and youth can and should play an effective advocacy role, and can also help them become more effective advocates for themselves.

A Child's Views

Considering a child's views is important when decision makers are determining what's in a child's best interests. Respecting the child's views promotes better planning and increases the child's capacity and competency to interact with the world around them in a positive manner.

UN Convention on the Rights of the Child

The work of both MCFD and the RCY is significantly influenced by the *United Nations Convention on the Rights of the Child* (UNCRC). The Convention sets out a wide range of measures to safeguard rights and to promote the physical, emotional, social and behavioural development of children.

Legislative Authority

The Representative's individual advocacy function is mandated in Section 6(a) of the *Representative for Children and Youth Act (RCY Act)*.

MCFD's legislative mandate includes the *Child, Family and Community Service Act (CFCSA)*, the *Adoption Act*, the *Youth Justice Act* (as well as administration of the federal *Youth Criminal Justice Act*), the *Child Care B.C. Act*, the *Child Care Subsidy Act*, and the *Social Workers Act*.

Section 70 of the CFCSA outlines the rights of children in care, including rights to be informed about and assisted in contacting Representative.

PROTOCOL DETAILS

Role of the RCY Advocate

An RCY advocate provides information, support and advice to children and youth who are receiving or attempting to access government services and government-funded services designated under the *RCY Act*.

RCY advocates act on behalf of children and youth to ensure their voices are heard, their rights are upheld, their interests are central to decision-making and services are being provided.

When an RCY advocate contacts MCFD or DAA to gather information and gain the Ministry's perspective on a concern that has been brought to the attention of the RCY, the advocate asks questions and makes requests guided by the appropriate legislation, standards, policies and principles.

RCY advocates are not best-interest decision-makers or case managers. However, advocates do:

- ask questions about the reasons behind a decision which has been made, or plan which has been created, particularly if based on the information gathered it appears practice standards may have been breached or rights have been violated
- participate directly in planning processes with and/or on behalf of children and youth to ensure their views are heard and considered and their rights upheld
- encourage meaningful participation of individuals in plans or decisions made about them
- encourage timeliness in planning and decision-making
- request reconsideration of decisions made
- file formal complaints on behalf of children and youth.

Role and Responsibilities of MCFD

It is the responsibility of MCFD staff to recognize the legal authority of the RCY advocate to act on behalf of children and youth, and to work cooperatively with RCY staff.

The RCY requires information from MCFD or DAA as part of their assessment in determining whether or not they will become involved as the child's or youth's advocate.

The RCY will contact MCFD or DAA local practitioners directly (e.g., social worker and team leader or supervisor) regarding case specific information.

MCFD or DAA staff, in consultation with the Team Leader will provide information to the RCY advocate.

The RCY advocate can ask to be included in case planning meetings and in other types of decision-making processes. The advocate can also request that a meeting be held on behalf of a child or youth.

Under Section 70 of the *Child, Family and Community Service Act (CFCSA)*, children and youth must be informed about the RCY and be assisted in making contact with the office. Children in care, including children in temporary and voluntary care, must receive this information as soon as possible on coming into care, and each time they come into care. MCFD or DAA will ensure that children, youth and families receiving designated services have access to information about the RCY.

Information Sharing

a) General

RCY advocates have been delegated responsibility for the advocacy function by the Representative. They will contact MCFD or DAA staff to discuss a particular child or family as appropriate.

The Representative and RCY advocates have a right² to any information in the custody or control of MCFD or DAA necessary to the Representative's advocacy work, and the Ministry or DAA are authorized³ to provide this

information in response to a request under the *RCY Act*.

People acting as a child advocate under an Act of Parliament or the legislature of a province are also allowed access to youth justice records.⁴

The person contacted by the RCY advocate may ask for evidence of delegation and the RCY delegate must provide this information.

b) Access to Information Management Systems

A small number of RCY advocacy staff have direct access to the MCFD Management Information System (MIS) on a read-only basis. An RCY advocate wanting MIS access must outline the purpose of a request and ask the RCY Director of Advocacy Services for access.

c) Initial Contact

The preferred initial contact for client issues is an e-mail from the RCY advocate to the MCFD local practitioner and team leader involved.

The regional dispute resolution consultant and/or designated provincial services/special needs operations contact will be copied on this e-mail.

The initial e-mail is often followed up by a telephone conversation. The MCFD team leader or supervisor can identify additional contacts for discussion with the RCY advocate.

MCFD will make all reasonable efforts to return the call or respond to the e-mail within 24 hours (one business day).

When the RCY contacts MCFD or DAA regarding an advocacy case, it is important to pass on information that will assist the RCY advocate in understanding the situation and advocacy role in the case.

It is preferable to work to resolve client issues at the local levels, while ensuring regional level staff are also informed of important issues.

Each Delegated Aboriginal Agency has a complaints process. The RCY will work with the individual Agency to determine the best method for the communication of RCY involvement.

d) Request from RCY for Formal Documents and Files

Section 10(2) requests to access record(s) must be in writing. The request must contain:

- A statement that the Requester is a delegate of the Representative under Section 8 of the *RCY Act*.
- A statement explaining who the Requester is advocating on behalf of, with their consent where feasible and appropriate.
- A clear explanation of the nature and type of records sought and the purpose for which the records will be used.
- A timeframe detailing when the RCY requires the records.

The RCY will not ask for the creation of new record/reports (e.g., case summaries). Additional information provided beyond information specified by the Requester is at the discretion of MCFD.

e) Response from MCFD for Formal Documents and Files

RCY requests for formal documents and files will be directed to the local practitioner and team leader/supervisor involved in the case.

Staff will inform their identified management (e.g., Community Services Manager and/or Executive Director of Practice, designated Provincial Services Division/Special Needs Operations) of the RCY request before forwarding documents or files to the RCY.

If there is uncertainty as to the delegation of the Requester, MCFD or the DAA will request evidence of delegation. Information will not be provided until satisfactory evidence of delegation is received.

The MCFD team leader/supervisor is expected to acknowledge the RCY request within two business days.

The requested information should be forwarded within five business days.

If circumstances prevent MCFD or DAA from meeting these timelines, the Requester will be notified and told the reason for the delay.

MCFD or DAA will make every effort to provide timely response and disclosure for requested information.

Confidentiality

Information received by the RCY is confidential by law⁵ and may not be further disclosed unless specifically authorized under the *RCY Act*, and where applicable, the federal *Youth Criminal Justice Act*. The *RCY Act* prohibits the disclosure of any RCY information without the expressed written permission of the Representative for Children and Youth.

Information provided by RCY advocates through formal or electronic correspondence is privileged, confidential, and exempt from disclosure under applicable laws.

Consent to Represent

The informed consent of children and youth is not a requirement in order for the RCY to advocate on their behalf. However, as a point of good practice and a demonstration of the principle of child and youth participation in matters that affect them, the RCY does seek the informed consent of children and youth to act on their behalf where possible and appropriate.

Review of Protocol

Any issues arising will be discussed and addressed by the Representative and MCFD, and this document will be reviewed and updated as required.

NOTES

- This protocol applies to all Aboriginal Child and Family Service Agencies unless they have their own protocol with the RCY or until such time that the Aboriginal Child and Family Service Agency has developed its own related protocol. This protocol does not explicitly reference Delegated Aboriginal Agencies throughout the document.
- Section 10(2) of the *RCY Act*
- Section 33.1(1)(c) of the Freedom of Information and Protection of Privacy Act and section 79(d) of the *Child, Family and Community Service Act (CFCSA)*
- Section 119(1)(l) of the *Youth Criminal Justice Act*
- Section 23 (4) of the *RCY Act*

SIGNED in British Columbia:



Mary McNeil
Honourable Minister
Ministry of Children and Family Development



Mary Ellen Turpel-Lafond
Representative for Children and Youth



Andrew Robinson
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