



# Making A Complaint About A Family Court – Appointed Psychologist

Information in this document is additional to the Board's usual 'Making a complaint about a psychologist' information sheet and should be read alongside it.

*This document references the Family Court Practice Note<sup>1</sup> and applies to complaints made against any psychologist who has prepared a specialist report ordered by the Family Court. It applies whether the Family Court proceedings are pending, in progress, or have been concluded. The outcome of a complaint against a family court appointed psychologist will not normally affect the outcome of the Family Court matter or change the judge's decision.*

1. If the Board receives a complaint about a Family Court appointed psychologist, the Board must refer it to the Family Court where the proceedings are being considered. If there is a health consumer involved the board must also refer it to the Health & Disability Commissioner (HDC) for consideration.
2. The Family Court will normally consider all such complaints in the first instance. Any complaint that the Board refers to the Court shall be directed to the Registrar of the Court where the report was requested.
3. The Registrar will refer the complaint to the presiding Judge, or Regional Administrative Family Court Judge, to consider. The Judge will provide a written Minute<sup>2</sup> to the Board as soon as practicable. This will normally only be after the Family Court case has been concluded. The Minute will set out any opinion on the merits of the complaint, and any action that will be taken by the Court. The Court will advise whether:
  - The complaint relates to a matter within the Court process, and will initially be dealt with by the Court; and/or
  - The complaint appears to be serious enough to require formal referral to the Board.
  - The Family Court proceedings have reached a point where the Board can then begin its complaints process, without risk of interfering with the Court's process.
4. Complaints made to the Court about the examination of the child may be directed to the HDC, or an Advocate under the HDC Act. The HDC will normally deal with complaints about the examination of the child, who in this context is defined as a health consumer. (Parents and other parties in Family Court Cases are not deemed by the HDC to be health consumers in this context.) The child (or their legal representative) may choose to lay such a complaint with any appropriate party, including the Court.
5. The Board will typically only deal with matters that go beyond the process of the Court and that raise questions about professional competence, conduct, or ethics of the psychologist. This may include matters such as inappropriate relationships between the report writer and the parties and breaches of privacy. The Court will formally refer all such cases to the Board.

## Complaints Made First To The Court, Or Referred To The Court By The Board

6. Matters that will generally be dealt with by the Family Court may include:
  - allegations of perceived bias;
  - allegations that the report writer discriminated against one of the parties, for example based on gender, race, religion or otherwise;
  - allegations that the methodology used by the psychologist was not appropriate;
  - allegations that one parent was treated differently from the other parent without a good reason given; and/or
  - any matter relating to the content of the report, such as failure to deal with any fact or issue, or the length or style of the report.

<sup>1</sup> The Family Court Practice Note is a Family Court guideline document implemented originally in June 2006 (and subsequently revised).

<sup>2</sup> "Minute" means a brief summary recording matters reviewed and the Judge's opinion.

7. Where a complaint to the Family Court relates to proceedings that are pending or in progress, the presiding Judge will consider the complaint. Where possible this will be either before the hearing or in the course of the hearing. This may be through cross-examination, submission, or evidence called on behalf of the complainant.
8. If the Court does not refer the complaint to the Board, the complainant can consider whether to make a complaint to the Board, noting matters that the Board usually considers.
9. Where a complaint to the Court is about proceedings that have concluded, the Regional Administrative Family Court Judge will consider the complaint and produce a minute<sup>3</sup> setting out the Court's view of the complaint. The complaint and minute do not need to be referred to the Board unless it appears to the Judge that there are issues of competence, or other issues best dealt with by the Board.
10. Once the Board has received a minute on the matter from the Court, the Board can consider the complaint matter as per normal processes. Please refer to the information sheet '*Making a Complaint about a Psychologist*' for further information.

### Points To Note

11. Where a complaint dealt with by the Board (whether received from the Complainant or referred by the Court) relates to s 133 report under the Care of Children Act, or s 178 report under the Children Young Persons and their Families Act, the Board may make a written request to the Court for a copy of the report. The Court will normally release a (complete or redacted) copy of the report to the Board for the sole purpose of dealing with the complaint. It will not usually be possible to release the report to the parties to the complaint. If the Board appoints a Professional Conduct Committee to investigate the complaint, the Committee will also follow this procedure to request access to the report.
12. While the Board does request and consider the Judge's view of the complaint, it must deal with complaints according to its own procedure and the requirements of the Health Practitioners Competence Assurance Act 2003. It is not bound by any decision made about a complaint by the Family Court. However, the Board will normally defer considering any complaint until it receives the Judge's final comment (usually once the case has been concluded). This is to avoid any unnecessary delays to the Family Court process; however it can often result in significant delays in progressing the complaint with the Board.

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<sup>3</sup> "Minute" means a brief summary recording matters reviewed.