



# County Roscommon Disability Support Group CLG

Policy: Complaints and Feedback Policy & Procedure

<b>Issue Date:</b>	April 2017	<b>Revision No. &amp; Date:</b>	REV 005	03.05.2022	<b>Review Date:</b>	April 2023
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## County Roscommon Disability Support Group CLG

### Complaints Policy & Procedure

The policy contained herein is in compliance with the following:

HSE Complaints Policy and Procedures Manual 'Your Service Your Say' Part 9 of the Health Act 2004  
Health Act 2004 (Complaints) Regulations 2006 (S.I. 652 of 2006)

<b>Title of Policy and Procedure:</b>	Complaints and Feedback Policy	<b>Document Developed By:</b>	Development Committee
<b>Policy Area:</b>	Services	<b>Document Approved By:</b>	Board of Directors
<b>Responsibility for Review and Audit:</b>	Management and Development Committee	<b>Responsibility for Implementation:</b>	Management

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<b>In Conjunction with:</b>	BoM	Development Committee	April 2017
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	Development Committee	Management Team & Divisional Heads as appropriate	April 2017
<b>Authoriser:</b>	Margaret Bourke	CEO	April 2017
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#### Revision Control Log

Version	Date	Change	BoM Approval Date
002	April 2018	Add Items 12 and 13 & added wording re staff not expected to tolerate personal abuse.	18 <sup>th</sup> April 2018
003	16.04.2019	Add Complaints Form Appendix 10.2 & add HSE Quarterly Reporting info Voluntary Agency Statistics.	N/A – CEO Approved
004	02.11.2020	Amendments required as per HSE's Consumer Affairs Dept, (email from P.D. Thu 29/10/2020 @ 12:31pm)	N/A – CEO Approved
005	04.04.2022	Add Sections 1.0, 1.1 and 1.2 specifically to 'Feedback' including compliments and comments. Clarification at 10.3 regarding Review.	N/A – CEO & Team Approved 03.05.22

This is a controlled document. Any printed version should be considered "uncontrolled" and is therefore subject to validation against the controlled version.



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### 1.0 Definition of Feedback

Feedback is information received by County Roscommon Disability Support Group CLG (**RSG**) from any person about their experience of any aspect of **RSG's** services or how these services are provided.

Feedback can generally be a comment, compliment, or complaint.

Feedback that is critical of **RSG** and requires a different response is considered a complaint and dealt with separately. Please refer to Section 2.0 for Definition of a Complaint.

#### 1.1 Feedback Procedure

Feedback can generally be a comment, compliment or complaint and can be provided in a number of ways:

- In Person: Verbally in person or by phone direct to an **RSG** employee.
- By Telephone: phoning the office and speaking with the individual or leaving a message with Reception who will direct as appropriate.
- By Email: to the department or individual e.g., **RSG** Care Team Member, **RSG** Day Services Coordinator, **RSG's** Clinical Governance Lead, **RSG's** Training Officer or **RSG's** CEO.
- In Writing: to the department or individual e.g., **RSG** Care Team Member, **RSG** Day Services Coordinator, **RSG's** Clinical Governance Lead, **RSG's** Training Officer or **RSG's** CEO.

#### 1.2 What Happens to Your Feedback? \*

*\*Comments and compliments. Complaints dealt with separately from Section 2.0 onwards.*

If feedback is provided directly to an **RSG** employee/volunteer, they will acknowledge the comment/compliment directly. The employee, where they have access, must update the Care Management System (CMS) appropriately by adding a Post-It note detailing all the specifics of the comment/compliment including relevant staff member e.g., Home Care Support Worker (HCSW) and service user. Whilst processing the CMS Post-It with the comments and compliments provided by service users, provide a 'cc' to all those persons necessary including the Line Manager, Clinical Governance Lead, and the Complaints Officer for update of the Complaints and Compliments Register.

Where/If the employee accepting the feedback on behalf of **RSG** do not have access to CMS they should email the comment/compliment to a member of the Care Coordination Team and their Line Manager to ensure update of the data on CMS. Capturing and recording of this data is important for the ongoing review, evaluation and development of **RSG** services.



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Any comments or compliments provided about a particular service or department within **RSG** directed to a Line Manager or the CEO must be recorded on CMS by that Line Manager.

Compliments which mention an individual member of staff will be forwarded by their Line Manager to that staff member.

Other feedback would include that generated from conducting unannounced visits when relevant staff complete the necessary Unannounced Visits Form (Spot Checks) – Staff Monitoring and the Unannounced Visits Form (Spot Checks) – Service User Feedback.

*Please refer to **RSG's** Supervision Policy, Monitoring and Evaluation Policy, Lone Worker Policy and the Procedure for further details on unannounced visit (previously known as spot checking).*

**RSG** produces an Annual Report and periodic awareness campaigns which may include information and use of quotes (testimonials) from comments and compliments received, all of these are fully anonymised and confidential.

## 2.0 Definition of a Complaint

The Section 45, Part 9 of the Health Act 2004 defines a complaint as follows: "*A Complaint means a complaint made about any action of the Executive, or a Service Provider (see definition below) that, it is claimed, does not accord with fair or sound administrative practice, and adversely affects the person by whom, or on whose behalf, the complaint is made*".

In the Health Act 2004 Action is defined as: "*...anything done or omitted to be done by the Executive, or by a Service Provider in connection with the provision of a health or personal social service that is the subject of an arrangement under Section 38 of the Act, or a service in respect of which assistance given under Section 39 of the Act*"<sup>1</sup>.

## 3.0 Purpose

The purpose of this document is to describe the policy of County Roscommon Disability Support Group CLG (**RSG**) in relation to complaints management. The policy aims to assure our statutory requirements under Part 9 of the Health Act 2004 and S.I. No. 652 of 2006 Health Act 2004 (Complaints) Regulations 2006. The aim of this policy is to ensure compliance with the terms specified for the treatment of complaints by Service Providers who are providing a service on behalf of the HSE as defined by section 38 and 39 of the Health Act 2004 and promote continuous quality improvement within our services.

<sup>1</sup> Section 45 Part 9 Health Act 2004



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#### 4.0 Scope

Within the meaning of **Part 9 of the Health Act 2004** a 'complainant' means a person who is entitled under **Section 46** to make a complaint on the person's own behalf or on behalf of another.<sup>2</sup> Therefore this policy applies to all Service Users and people using the services of **RSG**.

The policy applies to the management of complaints, reporting of complaints and feedback in relation to complaints. Complaints in relation to abuse will be managed using the and Safeguarding Vulnerable Persons at Risk of Abuse Policy or Child Protection Policy.

**RSG's** policies and procedures apply to any persons employed by **RSG**. This includes permanent staff, temporary workers and relief staff.

This Complaints Policy is for use by service users, other agencies, and members of the public. It is not for use by staff who have concerns or grievances; this is dealt with through the Grievance Procedure which is available to staff either through their Line Manager or on **RSG's** Client/Care Management System (CMS).

#### 5.0 Responsibility

It is the responsibility of management and supervisors to circulate this policy and ensure that all employees are aware of the Complaints Policy.

It is the responsibility of all employees to inform service users of the existence of the policy and to participate in the investigation of a complaint.

Each member of staff is expected to treat any concerns or complaints brought to them in an appropriate and confidential manner. All complaints must first be referred to the relevant services Coordinator/Facilitator and Line Manager e.g., Older Persons Care Services, Personal Assistant (PA) Services or The DALE Resource Centre Activities & Independent Living Services. The role of the Complaints Officer specified in the legislation will be carried out by **RSG's** Compliance Officer a member or a member of **RSG's** Management Committee or nominees acting in the role of Investigation Officer.

#### 6.0 Advocacy

All complainants have the right to appoint an advocate. If a person is unable to make a complaint themselves an advocate will assist them in making the complaint. Citizen Information (Comhairle 2005) defines advocacy as a means of empowering people by supporting them to assert their views and claim their entitlements and where necessary, representing and negotiating on their behalf.

<sup>2</sup> Section 46 (1) Any person who is being or was provided with a health or personal social service by the Executive or by a service provider or who is seeking or has sought provision of such service may complain, in accordance with the procedures established under this Part, about any action of the Executive or a service provider that-

- (a) It is claimed, does not accord with fair and sound administrative practice, and
- (b) Adversely affects or affected that person



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### 7.0 How Complaints Can Be Made

Complaints can be made, written or email by completing an **RSG** Complaints Form (physically or online) (refer to Appendix 20.1), or verbally by way of face-to-face or telephone communication. Complainants will be allowed the flexibility to lodge a complaint with either the **Service Coordinator/Facilitator or Line Manager**. Please refer to Appendix 20.2 for Complaint Management Process.

**NOTE:** A copy of this Complaints Policy and Procedure and HSE's 'Your Service Your Say' Policy is given to each service user when their service commences.

### 8.0 Acknowledgement of a Complaint

The Services Coordinator/Facilitator (or Manager where applicable) receiving the complaint will acknowledge receipt of the complaint in writing within **five (5) working days** and provide a target date for the response. The target date for a response to a complaint is **30 working days**. A complaint post-it, with applicable target completion date, will be generated on CMS, and an investigation initiated immediately. If the original timescale cannot be met, the Senior Manager and CEO must be informed, and a holding letter sent to the complainant explaining the delay.

#### 8.1 Documentation

The Services Coordinator/Facilitator will record details the complaint(s) on CMS as appropriate (no sensitive or personal data included) and action complaint as applicable using standard documentation including:

- Acknowledgment Letter
- Request for Meeting Letter
- Request for Information Letter
- Holding Letter (if/where applicable)
- Complaint Conclusion Letter

*(Sample template letters can be found at Appendix 20.3).*

### 9.0 Procedures

When a verbal complaint is received from a Service User in person, the person should be brought to a private area.

The relevant Service Coordinator/Facilitator should:

- Introduce themselves.
- Listen carefully to the issues that are being raised by the complainant.
- Summarise the issues to check that he/she have understood the issues raised.
- Confirm that the complainant agrees with the summary.
- The relevant Service Coordinator/Facilitator should then clarify what the complainant would like to happen as a result of the complaint.



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- Thank the complainant for taking the time to make the complaint and acknowledge the feelings of the complainant.
- Empathise and explain to the complainant that you will be look into the complaint and may have to refer it on to a senior employee and if so contact will be made within 7 days.
- The complaint should also be recorded on the Client/Care Management System (CMS) and on the complaints register. (This applies to all complaints from all sources e.g. Care Services, Personal Assistant (PA) Services, and Activities & Independent Living Day Services.
- The Line Manager/Complaints Officer must consider the right to confidentiality of the employee against whom the complaint appears to be made.
- Eligibility of Complainant to make a complaint: The Line Manager/Complaints Officer must ensure that the complaint comes under **Section 46, Part 9 of the Health Act 2004.**

## 10.0 The Stages of the Complaints Management Process

### 10.1 Stage 1: Point of Contact Resolution

These are straightforward (informal) complaints which may be suitable for prompt management and to the service users' satisfaction at the point of contact.

The relevant Service Coordinator/Facilitator must ensure that all details of this complaint are updated on CMS via a compliant post-it and relevant staff notified of the complaint e.g. section Manager e.g. Older Persons or Disability, Clinical Governance Lead, Complaint Committee Members, and CEO.

### 10.2 Stage 2: Formal Investigation Process

Unresolved complaints at Stage 1 may need to be referred to a Complaints Officer. More serious or complex matters may need to be addressed immediately under Stage 2. There may be a need for investigation and action(s) as appropriate.

The Complaints Officer must consider whether it would be practicable, having regard to the nature and the circumstance of the complaint, to seek the consent of the complainant and any other person to whom the complaint relates to finding an informal resolution of the complaint by the parties concerned.

Where informal resolution was not successful or was deemed inappropriate the Complaints Officer, upon notification from the Service Coordinator/Facilitator or Line Manager, will initiate a formal investigation of the complaint.

The Complaints Officer is responsible for carrying out the formal investigation of the complaint at Stage 2 but may draw on appropriate expertise, skills etc. as required. Staff have an obligation to participate and support the investigation of any complaint where requested.



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At the end of the investigation, the Complaints Officer must write a report of their investigation and give a copy of the report to the complainant, to the manager of the relevant service and / or staff member that was the subject of the complaint.

The final report will include any recommendations needed to resolve the matter. The Complaints Officer will invite everyone involved to contact them with questions about any issues and will advise the complainant of their right to a review of the recommendations made by the Complaints Officer.

Where the investigation at Stage 2 fails to resolve the complaint, the complainant may seek a review of their complaint from the Review at Stage 3 or the complainant may seek an independent review of their complaint from, for example, the Ombudsman/Ombudsman for Children.

#### 10.2.1 Implementation of Recommendations made by Complaints Officer(s)

- Within **30 working days** the relevant Service Coordinator/Facilitator will write to the Complainant and Complaints Officer detailing their **Recommendation Action Plan**.
- Where a recommendation, the implementation of which would require or cause HSE to make a material amendment to its approved service plan, the relevant Service Coordinator/Facilitator may amend or reject the recommendation.
- Where the recommendation is being amended or rejected or where alternative measures are being taken, the relevant Service Coordinator/Facilitator must give the reasons for their decisions.
- The relevant Service Coordinator/Facilitator must put an action plan in place for the implementation of the recommendations of the investigation. The action plan, persons responsible and timeframes are to be identified and recorded.
- Where a Complainant has requested a review of the outcome of the investigation, the relevant Service Coordinator/Facilitator will suspend the implementation of a recommendation and will notify the Complainant of this suspension.
- If after a period of time recommendations made are not implemented and the Complainant is dissatisfied, they should be advised to contact the relevant, either Disability or Older Persons, Community Health Organisation Chief Officer.
- Where no **Recommendation Action Plan** is forthcoming from the relevant Service Coordinator/Facilitator their Line Manager/Services Manager (as appropriate) must follow up.



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### 10.3 Stage 3: Review

These are complaints where the Complainant is dissatisfied with the outcome of the complaint investigation at Stage 2. A request for a review must be made within **30 days** of the investigation report being sent.

**RSG** retains the capacity to conduct a complaint review, procedure as outlined in Sections 10.3.1 and 10.3.2 below, as there is no obligation on the HSE to conduct a complaint review investigation for the Service Provider as long as there is a review process in place within the agency itself.

Clear details as to whom a complainant may apply to for a complaint review should be outlined within the complaint letter being sent out by the Complaints Officer/Services Manager. The complainant may also choose to go directly to the Office of the Ombudsman, Ombudsman for Children, or other professional bodies to whom the complainant could make an application for review.

#### 10.3.1 The Review Officer's Function

- (i) To determine the appropriateness of a recommendation made by the Complaints Officer, having regard to the two elements:
  - a. All aspects of the complaint
  - b. The investigation of the complain
- (ii) Having determined the appropriateness of the recommendation to uphold it, vary it, or make a new recommendation if they consider it appropriate to do so.

#### 10.3.2 Implementation of Recommendations Made by Review Officers

- Within **thirty (30) working days** the relevant Service Coordinator/Facilitator will write to the Complainant and the Review Officer detailing recommendation. (Sample template letters can be found at Appendix 20.4).
- Where a recommendation, the implementation of which would require or cause the HSE to make a material amendment to its approved service plan, the relevant Service Coordinator/Facilitator may amend or reject the recommendation.
- Where the recommendation is being amended or rejected or where alternative measures are being taken, the relevant Service Coordinator/Facilitator must give the reasons for their decisions.
- The relevant Service Coordinator/Facilitator must put an action plan in place for the implementation of the recommendations of the investigation. The action plan, persons responsible and timeframes are to be identified and recorded.



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Alternatively, a complainant may seek a review of the outcome through the HSE Head of Consumer Affairs. They will appoint a Review Officer to carry out a review of the complaint. The functions of the HSE Review Officer are the same as outlined in the agency Review Officer at 10.3.1 above.

The complainant and agency Complaints Officer will be informed of any decision of the Review Officer and may accept the recommendations made or can seek a review of the complaint by the Ombudsman.

HSE Western Region Consumer Affairs Area Office for Galway, Mayo and Roscommon contact:

Consumer Affairs Area Officer  
HSE West  
Merlin Park University Hospital  
Galway  
Phone: 091 775373  
Email: [consumeraffairs.west@hse.ie](mailto:consumeraffairs.west@hse.ie)

For further information on how to undertake a review investigation please go to the HSE's Reviews Guidance for Service Providers Document found at: <https://www.hse.ie/eng/about/qavd/complaints/ngclt/toolkit/volstoolkit/>

### 10.4 Stage 4: Independent Review

If the complainant is not satisfied with the outcome of **RSG's** complaints management process they may seek a review of the complaint by the Ombudsman/Ombudsman for Children.

The complainant must be informed of their right to seek an independent review from the Ombudsman/Ombudsman for Children at any stage of the complaint management process.

### 11.0 Who Can Make A Complaint?

In accordance with **Section 46, Part 9 of the Health Act 2004**, the following are entitled to make a complaint:

- Individuals who are receiving or having received health care services.
- Individuals who are seeking or who have sought services from the HSE.
- If a person is entitled to make a complaint but is unable to do so because of age, illness or disability, the complaint may be made on that persons behalf by:
  - A close relative or carer of the person (parent, guardian, son, daughter or spouse or is cohabiting with the person)
  - Any person who, by law or by appointment of a court, has the care of the affairs of that person
  - Any legal representative of that person



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- Any other person with the consent of the person or
- Any other person who is appointed as prescribed in the regulation
- If a person who would otherwise have been entitled to make a complaint is deceased, a complaint may be made by a person who, at the time of the action in relation to which the complaint is made, was a close relative, or carer of that person.

**Note:** In the course of receiving a verbal complaint an **RSG** staff member is not expected to tolerate personal abuse or aggressive behaviour from a Complainant.

## 12.0 Managing Written Complaints

### 12.1 Timeframes Involved Once A Complaint Is Received

- Where the Complaints Officer determines that the complaint does not meet the criteria i.e. matters excluded from right to complain as per Section 48 under Part 9 of the Health Act 2004. The Complaints Officer will inform the complainant in writing, **within 5 working days** of making the decision/determination, that the complaint will not be investigated and the reasons for it.
- Where the complaint will be investigated, the Complaints Officer must endeavour to investigate and conclude the investigation of a complaint within 30 working days of it being acknowledged.
- If the investigation cannot be investigated and concluded within 30 working days then the Complaints Officer must communicate this to the complainant and the relevant employee **within 30 working days** of acknowledging the complaint and give an indication of the time it will take to complete the investigation.
- The Complaints Officer must update the complainant and the relevant employee **every 20 working days**.
- **The Complaints Officer must endeavour to investigate complaints within 30 working days.** However, where the 30 working days time frame cannot be met despite every best effort, the Complaints Officer must endeavour to conclude the investigation of the complaint **within 6 months** of the receipt of the complaint.
- If this timeframe cannot be met, the Complaints Officer must inform the complainant that that the investigation is taking longer than 6 months, give an explanation why and outline the options open to the complainant.
- The Complaints Officer should encourage the complainant to stay with the **RSG** complaints management process while informing them that they may inform the HSE and seek a review of their complaint by the Ombudsman/ Ombudsman for Children.



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### 12.2 Timeframes Table

<b>Service User / Complainant Timeframes</b>	
To make a complaint	<b>12 months</b>
If Complainant does not wish service user confidential information to be accessed	<b>5 working days</b> from date of Acknowledgement Letter
Withdraw complaint	<b>At any stage</b>
Request a review of a complaint	<b>30 working days</b>
Refer complaint to Ombudsman	<b>At any stage</b>
<b>Service Coordinator/Facilitator/Line Manager Timeframes</b>	
Point of Contact Resolution (Stage 1)	<b>Immediately</b> / < 48 hours where possible
Open CMS Complaint Post-It & notify relevant staff as identified in 9.1 above	<b>Immediately</b> / < 48 hours where possible
Respond to request for information	<b>10 working days</b>
Acknowledgment Letter	<b>5 working days</b> from receipt of complaint in <b>RSG</b>
Notification Letter/Email to Line Manager, and/or CEO and/or Complaints Officer	<b>On receipt of complaint</b> – if appropriate
Seeking further information	<b>10 working days</b>
<ul style="list-style-type: none"> <li>• Request for Meeting Letter</li> <li>• Request for Information Letter</li> <li>• Holding Letter (if/where applicable)</li> <li>• Complaint Conclusion Letter</li> </ul>	<b>Promptly</b> – as/if/where appropriate
Update Complainant and relevant staff	<b>Every 20 working days</b> after initial 30 day due date
Complaint – Recommendation(s) Action Letter	<b>30 working days</b>
Review – Recommendations(s) Action Letter	<b>30 working days</b>
<b>Complaints Officer Timeframes</b>	
Notify Complainant of decision to extend/not extend 12 months timeframe	<b>5 working days</b>
If complaint does not meet criteria for investigation – inform Complainant	<b>5 working days</b>
Investigate and conclude (Report)	<b>30 working days</b> from date of Acknowledgement Letter
Notification of any Investigation Delay(s) Letter	<b>30 working days</b>
Conclude at latest	<b>6 months</b>



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Review Officer Timeframes	
Notify Complainant of decision to extend/not extend 30 days timeframe	<b>5 working days</b>
Review Officer should make contact with Complainant & explain process	<b>&lt; 48 hours*</b> – if appropriate
Acknowledgement Letter	<b>5 working days</b> from receipt of review request in HSE
If complaint does not meet criteria for review – inform Complainant	<b>5 working days</b>
Seeking further information	<b>10 working days</b>
Update Complainant and relevant staff	<b>Every 20 working days</b> after initial 20 day due date
Investigate and conclude (Report)	<b>20 working days</b> from date of Acknowledgement Letter

**Source:** Adapted from the HSE’s Guideline Document for Providers who have entered into a Service Agreement under Section 38 or 39 of the Health Act 2004: Complaints Management Procedure for Voluntary Organisations.

### 13.0 Time Limits for Making a Complaint

The Line Manager/Complaints Officer must determine if the complaint meets the time frames as set out in **Section 47, Part 9 of the Health Act 2004** which requires that:

- A complaint must be made within 12 months of the date of the action giving rise to the complaint
- Or within 12 months of the complainant becoming aware of the action giving rise to the complaint.

#### 13.1 Extending Time Limits for Making A Complaint

A Line Manager/Complaints Officer may extend the time limit for making a complaint if in the opinion of the Line Manager/Complaints Officer special circumstances make it appropriate to do so.

These special circumstances include but are not exclusive to the following:

- If the complainant is ill or bereaved
- If new relevant, significant and verifiable information relating to the action becomes available to the complainant
- If it is considered in the public interest to investigate the complaint
- If the complaint concerns an issue of such seriousness that it cannot be ignored
- Diminished capacity of the Service User at the time of the experience e.g. mental health, critical/ long-term illness.



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- Where extensive support was required to make the complaint and this took longer than 12 months

The Line Manager/Complaints Officer must notify the complainant of decision to extend / not extend time limits within 5 working days of the decision being made.

#### 14.0 Principles Governing the Investigation Process

The investigation will be conducted thoroughly and objectively with due respect for the rights of the complainant and the rights of the service/staff members to be treated in accordance with the principles of natural justice.

The Complaints Officer will have the necessary expertise to conduct an investigation impartially and expeditiously. Where appropriate, the Complaints Officer may request appropriately qualified persons to carry out clinical assessments, validation exercises etc.

Confidentiality will be maintained throughout the investigation to the greatest extent consistent with the requirements of fair investigation.

A written record will be kept of all meetings and treated in the strictest confidence.

The Complaints Officer may interview any person who they feel can assist with the investigation. Staff are obliged to co-operate fully with the investigation process and will be fully supported throughout the process.

Staff who participate in the investigation process will be required to respect the privacy of the parties involved by refraining from discussing the matter with other work colleagues or persons outside the organisation.

It will be considered a disciplinary offence to intimidate or exert pressure on any person who may be required to attend as a witness or to attempt to obstruct the investigation process in any way.

#### 15.0 Matters Excluded from the Right to Complain Under Part 9 of The Health Act 2004

A complaint is excluded under **Part 9 of the Health Act 2004** if it is in relation to any of the following matters:

- a matter that is or has been the subject of legal proceedings before a court or tribunal;
- a matter relating solely to the exercise of clinical judgment by a person acting on behalf of either the Executive (HSE) or a service provider;
- an action taken by the Executive (HSE) or a service provider solely on the advice of a person exercising clinical judgment in the circumstances described in paragraph (b);
- a matter relating to the recruitment or appointment of an employee by the Executive or a service provider;



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- a matter relating to or affecting the terms or conditions of a contract of employment that the Executive (HSE) or a service provider proposes to enter into or of a contract with an adviser that the Executive proposes to enter into under section 24;
- a matter relating to the Social Welfare Acts;
- a matter that could be the subject of an appeal under section 60 of the Civil Registration Act 2004;
- a matter that could prejudice an investigation being undertaken by the An Garda Síochána;
- a matter that has been brought before any other complaints procedure established under an enactment (e.g., complaints made under Part 2 of Disability Act, 2005 or the Mental Health Act 2001)

Source: <https://www.hse.ie/eng/about/qavd/complaints/ncglt/excel/complaints-excluded-from-process.html>

### 16.0 Refusal to Investigate or Further Investigate Complaints

Section 50, Part 9 of the Health Act 2004 which requires that a Complaints Officer shall not investigate a complaint if:

- a. the person who made the complaint is not entitled under *section 46* to do so either on the person's own behalf or on behalf of another,
- b. the complaint is made after the expiry of the period specified in *section 47(2)* or any extension of that period allowed under *section 47(3)*.

**RSG's** Complaints Officer may decide not to investigate or further investigate an action to which a complaint relates if, after carrying out a preliminary investigation into the action or after proceeding to investigate such action, that officer:

- (a) is of the opinion that:
  1. the complaint does not disclose a ground of complaint provided for in *section 46*,
  2. the subject-matter of the complaint is excluded by *section 48*,
  3. the subject-matter of the complaint is trivial, or
  4. the complaint is vexatious or not made in good faith,

or

- (b) is satisfied that the complaint has been resolved.

**RSG's** Complaints Officer shall, as soon as practicable after determining that they are prohibited by *subsection (1)* from investigating a complaint or after deciding under *subsection (2)* not to investigate or further investigate a complaint, inform the complainant in writing of the determination or decision and the reasons for it.



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## 17.0 Unreasonable Complainant Behaviour

### 17.1 Anonymous Complaints

**RSG** will not investigate anonymous complaints against any member of staff. To register a complaint, you must provide personal contact details. Anonymous complaints against members of staff will not be entertained due to the possibility that they may be vexatious or malicious in nature. Anonymity of complainant does not enable the principles of natural justice to be upheld. All verbal and written anonymous complaints regarding services or events should be brought to the attention of the relevant manager for a decision as to whether further action is needed.

### 17.2 Vexatious or Malicious Complaints

If found to be vexatious, **RSG** will not pursue the complaint any further. If a complaint is found to be vexatious, there will be no record of the complaint in the file of the staff member/service about which the complaint was made. However, this does not remove the complainant's right to submit their complaint to independent agencies, such as the Ombudsman or the Ombudsman for Children.

Where complainants have been identified as vexatious in accordance with the criteria as identified in the HSE's Policy for Dealing with Vexatious Complaints (see Appendix 20.5), the Line Manager or deputy will review vexatious or malicious complaints determine if any action should / can be taken by **RSG**. The Line Manager or deputy will implement such action and will notify complainants in writing of the reasons why they have been classified as vexatious and the action to be taken. This notification will be copied for the information of others involved, e.g. Complaints Committee, CEO, HSE Consumer Affairs. A record must be kept for future reference of the reasons why a complainant has been classified as vexatious.

## 18.0 Redress

An effective complaints system which offers a range of timely and appropriate remedies will enhance the quality of service to the consumers of **RSG**. It will have a positive effect on staff morale and improve **RSG's** relations with the public. It will also provide useful feedback to the **RSG** and enable it to review current procedures and systems which may be giving rise to complaints.

Redress should be consistent and fair for both the complainant and the service against which the complaint was made. **RSG** will offer forms of redress or responses that are appropriate and reasonable where it has been established that a measurable loss, detriment, or disadvantage was suffered or sustained by the claimant personally.

This redress could include:

- Apology
- An explanation
- Refund
- Admission of fault
- Change of decision



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- Replacement
- Repair /rework
- Correction of misleading or incorrect records
- Technical or financial assistance
- Recommendation to make a change to a relevant policy or law
- A waiver of debt

A Complaints Officer may not, following the investigation of a complaint, make a recommendation the implementation of which would require or cause:

- a) the HSE to make a material amendment to its approved service plan, or
- b) **RSG** and the HSE to make a material amendment to an arrangement under section 38.

If, in the opinion of the relevant person, such a recommendation is made, that person shall either:

- a) amend the recommendation in such manner as makes the amendment to the applicable service plan or arrangement unnecessary, or
- b) reject the recommendation and take such other measures to remedy, mitigate or alter the adverse effect of the matter to which the complaint relates as the relevant person considers appropriate.

## 19.0 Reporting to the HSE

### 19.1 General Report on Complaints Received by the Service Provider

Under our Service Level Agreements with the HSE, **RSG** must provide on a biannual basis general reports on complaints received by the organisation. This requirement is in line with Section 55(2) of the Health Act 2004.

*A service provider who has established a complaints procedure by agreement with the Executive shall in each year, at such time and in such manner as the Executive may determine, provide the Executive with a general report on the complaints received by the service provider during the previous year indicating:*

- (a) the total number of complaints received,*
- (b) the nature of the complaints,*
- (c) the number of complaints resolved by informal means, and*
- (d) the outcome of any investigation into the complaints.*



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### 19.2 General Report on Reviews Undertaken by the Service Provider

In addition to the above **RSG** must provide on a biannual basis general reports on reviews under Section 49(4) of the Health Act 2004.

According to Section 55(3) of the Health Act 2004:

*If the Executive assigns its functions under section 49(4) to another body, that body shall in each year, at such time and in such manner as the Executive may determine, provide the Executive with a general report on the reviews conducted by it during the previous year indicating-*

- (a) the total number of reviews,*
- (b) the nature of the reviews, and*
- (c) the outcome of the reviews.*

Complaints are submitted on an agreed Voluntary Agency Statistics template to the HSE (National Complaints Governance & Learning Team | National Quality Assurance & Verification @ Catherine Street Limerick email address nationalcgl@hse.ie) on a quarterly basis for the periods of January-March, April-June, July-September, and October-December.

The deadline for the return of these templates shall be 20<sup>th</sup> of the month following each quarter respectively.

Self-Declaration Complaints are submitted to the HSE (Galway, Mayo, Roscommon – Consumer Affairs Area Officer – Liam Quirke [consumeraffairs.west@hse.ie](mailto:consumeraffairs.west@hse.ie)) on a bi annual basis.

The Complaint Template is used to submit all complaints to the HSE.

## 20.0 References

### 20.1 Websites

<https://www.hse.ie/eng/about/qavd/complaints/ncglt/toolkit/volstoolkit/>

<https://www.hse.ie/eng/about/qavd/complaints/policy/#complaintsmainmenu>

<https://www.hse.ie/eng/about/qavd/complaints/ncglt/excel/complaints-excluded-from-process.html>

<http://www.irishstatutebook.ie/eli/2004/act/42/section/48/enacted/en/html>

### 20.2 Other: Publications

Guideline Document for Providers who have entered into a Service Agreement under Section 38 or 39 of the Health Act 2004: Complaints Management Procedure for Voluntary Organisations.



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### 21.0 Appendices

21.1 RSG Complaint Form

21.2 Complaint Management Process

21.3 Complaints Templates Standard Letters

21.4 Complaints Templates HSE Letters for Conducting Reviews

21.5 HSE's Policy on Dealing with Vexatious Complaints

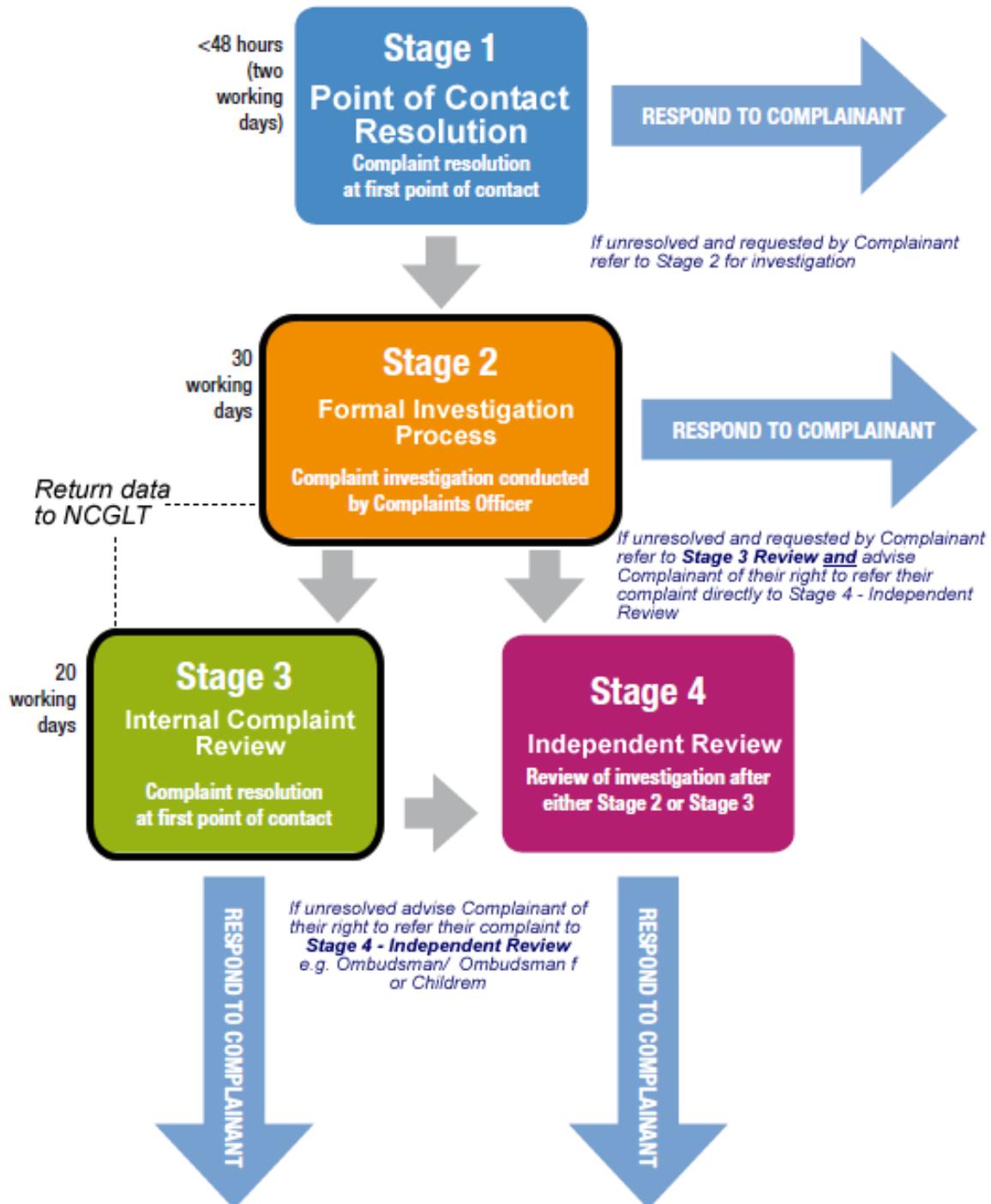


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## Appendix 20.2 Complaint Management Process



Source: HSE's Guideline Document for Providers who have entered into a Service Agreement under Section 38 or 39 of the Health Act 2004: Complaints Management Procedure for Voluntary Organisations.