



Complaints Policy and Procedure

- **Introduction**

It is our goal to ensure that the services we provide are of the best quality and serve our clients well. This Policy & Procedure will advise you on your rights as a user of Bodywhys services. You have statutory rights under Part 9 of the Health Act 2004 which we will be explained in this document.

- **Definition of a complaint**

(Definition as per the Health Act 2004) “complaint” means a complaint made under this Part about any action of Bodywhys that—(a) 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;

- **Purpose**

The purpose of having a complaints procedure at Bodywhys is to comply with our statutory obligations under section 9 of the Health Act 2004. It is the aim of Bodywhys to provide high quality services, to respond and resolve complaints and to benefit from our customer feedback to constantly improve the quality of the services we provide.

- **Who can make a complaint**

Any person who is being or was provided with a health or personal social service by the Service Provider (Bodywhys) 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 Service Provider that-

(a) it is claimed, does not accord with fair and sound administrative practice, and

(b) adversely affects or affected that person.

This could include the following:

- People who have received our services
- People who have sought our services
- Close relatives or carers of a person, or someone who has the consent of that person to act on their behalf
- Close relatives or carers of a deceased person.

You can make a complaint about the service or action that you consider to be unfair and that negatively affects you or has affected you in the past. The action does not represent fair or sound administrative practice if it is:

- Taken without proper permission or authority
- Taken for unnecessary reasons
- The result of negligence or carelessness
- Based on incorrect or incomplete information
- Discriminatory
- Based on bad administrative practice

- **Complaints can be made:**

Complaints can be made in a number of ways:

- verbally, by addressing the relevant staff member directly, who will try to help you to solve the problem immediately;
- by telephone: 01-2834963
- or in writing, by post or email addressed to the CEO

Address: Bodywhys, PO Box 105, Blackrock, Co. Dublin.

Email: ceo@bodywhys.ie

- **Acknowledgements**

(HEALTH ACT 2004)

Acknowledgement of complaints

7. (1) Upon a complaint being received by a staff member (including a referral under section 48(2)), he or she shall notify, **within 5 working days**, the complainant, in writing, that the complaint has been so received and outline the steps that he or she proposes to take in investigating the complaint and the time limits for the completion of the investigation.

- **Advocacy**

All complainants have the right to appoint an advocate who can 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.

- **The stages of the complaints management process**

Once we receive a complaint, we will respond to it promptly and wherever possible, we will do our best to resolve the complaint quickly. An immediate response to all complaints may not be possible, as some may require formal and careful consideration. It is expected that the majority of complaints can be resolved informally. If informal resolution is not appropriate or is not successful, the CEO will start a formal investigation into the complaint.

Stage 1 Management of a Verbal Complaint at the point of contact

Staff should have clear delegations to resolve verbal complaints at first point of contact wherever possible.

Stage 2a: Informal Resolution:

The CEO 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. Mediation may be used to attempt resolution of the complaint at Stage 2 if both parties agree. Where informal resolution was not successful or was deemed inappropriate, the CEO will initiate a formal investigation of the complaint.

Stage 2b: Formal Resolution

The CEO 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. Where the investigation

at Stage 2 fails to resolve the complaint, the complainant may seek a review of their complaint by the HSE Internal Process at Stage 3.

Stage 3: HSE Review

All requests for a HSE review should be forwarded to: **HSE Advocacy Services, Health Service Executive, Oak House, Millennium Park, Naas, Co. Kildare.**

The HSE Advocacy Services will examine the request for review and appoint a Review Officer(s) if appropriate to carry out the review of the complaint. Review Officer(s) will review the processes used to carry out the investigation of the complaint and the findings and recommendations made post-investigation. The Review Officer(s) will either uphold, vary or make a new finding and recommendation. The Review Officer(s) may carry out a new investigation of the complaint or recommend that a local re-investigation of the complaint be carried out by a Complaint Officer independent of the initial investigation team.

Stage 4: Independent Review

If the complainant is not satisfied with the outcome of the complaints management process he/she 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.

- **Managing complaints**

The staff of Bodywhys will manage complaints according to the following procedure;

- Receive complaint (verbal or written)
- Read, listen, empathise and acknowledge
- Identify any multiple issues
- Confirm the details of the complaint with the complainant
- Identify what outcome the complainant would wish to result from their complaint
- Recipient of complaint determines the appropriate management of the complaint.
- If not resolved, review somewhere else. The stages for resolution of a complaint will be:
 - Resolve locally between staff member and complainant
 - Refer the complainant to the staff member's direct line manager
 - Refer the complainant to the CEO of Bodywhys
 - Refer the complainant to the Chairman of Bodywhys
 - The complainant may wish to refer to HSE
 - The complainant may wish to refer to the Ombudsman and can do so at any stage of the complaint if they so wish.

- **Timeframes involved once a complaint is received**

- The complaint will be informed in writing, within 5 working days of making the decision/determination, whether or not the complaint will be investigated and if not being investigated the reasons for it.
- Where the complaint will be investigated, the staff member/CEO or Chairman 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 person must communicate this to the complainant and the relevant service/staff member within 30 working days of acknowledging the complaint and give an indication of the time it will take to complete the investigation.
- The staff member/CEO or Chairman must update the complainant and the relevant staff/ service member every 20 working days.
- The staff member/manager/Director or Chairman 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 staff member/CEO or Chairman 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 staff member/CEO or Chairman must inform the complainant that the investigation is taking longer than 6 months, give an explanation why and outline the options open to the complainant. He/She should encourage the complainant to stay with the local HSE complaints management process while informing them that they may seek a review of their complaint by the Ombudsman/ Ombudsman for Children.

- **Time Limits for making a complaint**

The staff member/CEO or Chairman, 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. The staff member/CEO or Chairman, may extend the time limit for making a complaint if in the opinion of the staff member/CEO or Chairman 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 the 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.
 - Where extensive support was required to make the complaint and this took longer than 12 months
 - A Complaints officer must notify the complainant of decision to extend / not extend time limits within 5 working days.
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- **Matters excluded (As per Part 9 of the Health Act)**

48.—(1) A person is not entitled to make a complaint about any of the following matters:

- (a) a matter that is or has been the subject of legal proceedings before a court or tribunal;

(b) a matter relating solely to the exercise of clinical judgment by a person acting on behalf of either the Executive or a service provider;

(c) an action taken by the Executive or a service provider solely on the advice of a person exercising clinical judgment in the circumstances described in paragraph (b);

(d) a matter relating to the recruitment or appointment of an employee by the Executive or a service provider;

(e) a matter relating to or affecting the terms or conditions of a contract of employment that the Executive 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;

(f) a matter relating to the Social Welfare Acts;

(g) a matter that could be the subject of an appeal under section 60 of the Civil Registration Act 2004;

(h) a matter that could prejudice an investigation being undertaken by the Garda Síochána;

(i) a matter that has been brought before any other complaints procedure established under an enactment.

(2) Subsection (1)(i) does not prevent a complaints officer from dealing with a complaint that was made to the Ombudsman for Children and that is referred by him or her to a complaints officer.

- **Review Process**

Internal reviews are to be carried out by the HSE. All reviews should be addressed to:

HSE Advocacy Services,

Health Service Executive,

Oak House, Millennium Park
Naas, Co. Kildare.

- **Independent Review – Ombudsman**

Nothing in this Part prohibits or prevents any person who is dissatisfied with a recommendation made or step taken in response to a complaint under this Part or with a review under this Part from referring the complaint to the Ombudsman or the Ombudsman for Children.

Office of the Ombudsman,
18 Lr. Leeson Street, Dublin 2.

Tel: +353-1-639 5600

Lo-call: 1890 223030

Fax: (01) 639 5674

Ombudsman for Children's Office,
Millennium House,
52-56 Great Strand Street,
Dublin 1.

Tel: 01-8656800

- **Vexatious complaints**

If the staff member/CEO or Chairman has reason to believe that the complainant is not acting in good faith, an area manager of the HSE must be involved in this decision.

- **Redress**

An effective complaints system which offers a range of timely and appropriate remedies will enhance the quality of service to the consumers of the HSE. It will have a positive effect on staff morale and improve the HSE's relations with the public. It will also provide useful feedback to the HSE 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. The HSE or Bodywhys should 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:

- o Apology
- o An explanation
- o Refund
- o Admission of fault
- o Change of decision
- o Replacement
- o Repair /rework
- o Correction of misleading or incorrect records
- o Technical or financial assistance
- o Recommendation to make a change to a relevant policy or law
- o 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 Executive to make a material amendment to its approved service plan,
or

(b) Bodywhys and the Executive to make a material amendment to an arrangement under section 38.

(2) 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.

The CEO will always write to you informing you of any decision not to investigate a complaint, outlining the reasons for that decision and advising you of your right of review.

Bodywhys will use complaints, comments and suggestions to identify any improvements that are needed to enhance the quality of our services. They also provide us with an opportunity to review our current procedures which give rise to complaints.

Compliments that mention an individual member of staff or volunteer will be sent to that person.

- **Annual Report to the HSE**

Bodywhys has established a complaints procedure by agreement with the HSE and must provide the HSE with a general report on the complaints received by the service provider during the previous year indicating:

- The total number of complaint received
- The nature of the complaints
- The number of complaints resolved by informal means
- The outcome of any investigations into the complaints

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Complaints Policy - PO Box 105, Blackrock, Co. Dublin. Admin Tel: 01 2834963

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