



Document Name	Complaints Policy
Version reference	5 Under Item 4 <i>Accepting and Registering a Formal Complaint</i> - Removal of Stage 4 – HSE Review as the National Advocacy Unit is no longer in existence and replace it with reference to the Ombudsman
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# Complaints Policy



Mental Health  
Ireland

Version 5.0

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## 1.0 Purpose of Policy

It is the policy of Mental Health Ireland and its affiliate Mental Health Associations to be open to and willing to listen to complaints regarding our organisation and services. We welcome any suggestions, recommendations or comments made by service users, customers, volunteers or member of the public regarding our organisation and service.

The Mental Health Ireland Complaints Policy has been developed to ensure all complaints to MHI are dealt with in an open, efficient and sensitive manner with highest regard for our service users, partners and our stakeholders.

MHI has put in place this complaints process to ensure a proactive response to any complaints that may arise, and to address its responsibilities under the Health Act 2004 with regard to responding to, and reporting of, complaints.

### Who can make a complaint?

Any person who is being, or was, provided with a service by MHI, 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 MHI that -

- (a) it is claimed, does not accord with fair and sound administrative practice, and
- (b) adversely affected that person.

## 2.0 What is a Complaint?

A complaint may relate to a decision or action concerning the business of MHI or its MHAs. It may also relate to how MHI and its MHAs carry out its functions for instance it may be claimed that MHI or its MHAs has carried out its functions whilst not being in accordance with:

1. The rules, practices or policies of the organisation.
2. The generally accepted principles of equity and good administrative practice.  
or
3. If it is felt that it adversely affects the person concerned, or if the complainant believes that he/she was treated in a discourteous or otherwise unsatisfactory manner.

## 3.0 Registering an Informal Complaint

1. Any individual, or organisation, can make a complaint to MHI if they have concern about the delivery of MHI or MHA services or other relevant issues.

Complaints may be submitted by phone, through direct contact, e-mail or otherwise. Ideally the person making the complaint should initiate the contact but they may be assisted by another person assisting or acting on their behalf.

A complaint about an MHA should be directed to that MHA in the first instance. Only if attempts to resolve the complaint at a local level fail, can the complaint be processed by MHI.

2. All complaints should preferably be made informally, at point of contact in the first instance where the matter is brought to the attention of the staff member concerned either directly or through a third party.
3. If a person is unable to make a complaint themselves, all complainants have the right to appoint an advocate who can assist them in making the complaint.
4. If the complaint cannot be dealt with at point of contact, the assistance of a more senior staff member should be sought to try to resolve the situation.
5. It is in this way that MHI aims to ensure that every opportunity is taken to address complaints as soon as possible without resorting to a more formal process.

#### 4.0 Accepting and Registering a Formal Complaint

Complainants are encouraged to use the informal complaints procedure as far as possible. However, if the complaint cannot be dealt with informally, the formal complaints procedure should be implemented as follows: Stage 1 – *Management of a Verbal Complaint at the Point of Contact*. Staff have clear delegations to resolve verbal complaints at first point of contact wherever possible.

##### *Stage 2a – Informal Resolution*

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.

##### *Stage 2b – Formal Investigation*

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 when requested.

##### *Stage 3a – MHI Review*

Where the investigation at Stage 2 fails to resolve the complaint, the complainant may seek a review of their complaint by the CEO of Mental Health Ireland.

#### Stage 4 –Ombudsman Review

If the complainant is not happy with the processing of their complaint, they can refer their complaint to the Office of the Ombudsman.

#### Registering a Formal Complaint

1. The complainant should be requested to submit the complaint in writing.
2. Each formal complaint should be referred to the Complaints Officer, MHI, 1-4 Adelaide Road, Glasthule, County Dublin.
3. All complaints will be dealt with discreetly, subject to the need to investigate the facts involved.
4. All data gathered will be recorded and stored in accordance with the Data Protection Acts.
5. The complainant should be assured in every case that the complaint is being taken seriously and that they are being treated fairly.

### 5.0 Investigation and Report

1. Upon a complaint being received by, or assigned to the Complaints Officer (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 or assigned 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.
2. The Complaints Officer may request further information from the complainant and, if deemed necessary, the Complaints Officer will consult with all relevant parties regarding the matter.
3. The Complaints Officer may also, if appropriate, request a report in relation to the complaint from the relevant staff member(s).
4. Where appropriate the Complaints Officer may discuss a complaint with relevant staff.
5. A summary of the findings and decision arising from the complaint will be given to the complainant and the staff member.
6. This will be completed within four working weeks from the date of receipt of the complaint where possible, or as soon as possible in instances where relevant information is not readily available.
7. Management and relevant staff will be informed of the outcome of a complaint.

## 6.0 Managing Complaints

### Timeframes involved once a complaint is received.

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:

1. Where the complaint will be investigated, the Complaint's Officer must endeavour to investigate and conclude the investigation of a complaint within 30 working days of it being acknowledged.
2. 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.
3. The Complaint's Officer must update the complainant and the relevant staff/service member every 20 working days.
4. The Complaint's Officer must endeavour to investigate complaints within 30 working days. However, where the 30 working days timeframe cannot be met despite every best effort, the Complaint's 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 Complaint's person 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 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 Complaints Officer must determine if the complaint meets the timeframes 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 Complaint's Officer may extend the time limit for making a complaint if in the opinion of the Complaint's 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 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
- 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
- The Complaint's Officer must notify the complainant of decision to extend/not extend time limits within 5 working days.

#### 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 judgement 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.

Complaints that do not come under Part (9) of the Health Act must be addressed using the appropriate policy/procedure/guidelines or legislation e.g.

- Trust in Care

- Children’s First – national guidelines for the Protection and Welfare of Children
- Pre-school Services – Pre-school service regulations
- Grievance and Disciplinary
- Dignity at Work

Complaints in relation to breaches of Data Protection Rights must be dealt with in line with the Data Protection Acts 1988, 2003, 2018 and notified to the Local Health Office and HSE Consumer Affairs.

#### Complaints that have been received where the source of the complaint is unknown

Anonymous complaints cannot be fully investigated as there is always a possibility that they may be vexatious or malicious and the anonymity of the complainant does not enable the principles of natural justice and procedural fairness to be upheld. Notwithstanding the fact that anonymous complaints cannot be subject to a full formal investigation, the Complaints Officer will assure themselves that the systems in place are robust and the welfare of clients are not at risk. All complaints both written/verbally are documented and reported to the HSE. They should be brought to the attention of the relevant manager for a decision as to whether quality improvements are required on the basis of the complaint. The Complaints Officer is responsible for trending anonymous complaints.

#### **Redress -**

An effective complaints system which offers a range of timely and appropriate remedies will enhance the quality of service to users of our services. It will have a positive effect on staff morale and support our good relations with the public. It will also provide useful feedback to MHI and enable MHI 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. We offer forms of redress or responses that are appropriate and reasonable where it has been established that a measureable 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
- Replacement
- Repair/rework
- Correction of misleading or incorrect records
- Technical or financial assistance

## 7:0 Unreasonable or vexatious complaints

In a small minority of cases despite all MHI's efforts to take all reasonable measures to try to resolve a complaint through the complaints procedure, the complainant may not accept MHI's efforts.

Where a complainant's behaviour could be considered abusive, unreasonable or vexatious, they will be advised and requested to desist from such behaviour. If the behaviour persists then complaints will be acknowledged but not actioned. Such complainant will be advised of other channels with full contact details they can use to pursue their complaint.

## 8.0 Right to Appeal

The complainant has the right to appeal the outcome of the Complaint Officer's inquiry. An appeal should be made in writing to the CEO Mental Health Ireland.

**Barbara Davis**  
**Complaints Officer**  
**MHI**  
**1-4 Adelaide Road**  
**Glasthule**  
**County Dublin.**

**Phone: 01 2841166**