



# Mental Health Ireland

## COMPLAINTS POLICY

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## 1.0 Purpose of Policy

It is the policy of Mental Health Ireland and its affiliate Mental Health Associations (MHA) 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.

### 1.1 Governance behind the policy

To ensure due diligence in complaint handling

To adhere to Mental Health Irelands obligations under the Health Act 2004 & The Ombudsman Act 1980.

To ensure Mental Health Ireland has a nominated Complaints Officer at all times.

To ensure that as a funded organisation, Mental Health Ireland satisfy reporting requirements in relation to complaints.

To ensure that fair process expectations are met by any person who presents a complaint or concern.

## 2.0 What is a Complaint?

A complaint may relate to a decision or action concerning the business of Mental Health Ireland or its MHAs. It may also relate to how Mental Health Ireland and its MHAs carry out its functions. For instance, it may be claimed that Mental Health Ireland 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.

### 2.1 Definition of a complaint

“A complaint is an expression of dissatisfaction by one or more members of the public about an organisation’s action or lack of action, or about the standard of service provided by or on behalf of the organisation”. (Office of the Ombudsman 2015)

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“complaint” means a complaint made under this Part about any action of the Executive or a service provider that—

- (a) it is claimed, does not accord with fair or sound administrative practice, and
- (b) adversely affects the person by whom or on whose behalf the complaint is made.

(As per the Health Act 2004)

## 3.0 Making a Complaint

### 3.1 Who can make a complaint?

Any person who is being, or was, provided with a service by Mental Health Ireland, or who is seeking, or has sought provision of such service may complain, in accordance with the procedures established under this Policy, about any action of Mental Health Ireland that –

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

### 3.2 How can complaints be made?

Complaints can be made either in writing, via letter or email, by phone or in person.

**In Person:** Talk to any member of Mental Health Ireland staff.

**By Email:** E-mail [info@mentalhealthireland](mailto:info@mentalhealthireland) with your feedback.

**By Letter:** Send a letter addressed to our Complaints Officer, Mental Health Ireland, 2<sup>nd</sup> Floor Marina House, Clarence Street, Dun Laoghaire, A96 E289

**By Phone:** 01-2841166

An advocate can make a complaint in support of or on behalf of a person. This can be done using a advocacy service of the complainant’s choice.

#### **SAGE Advocacy**

Website: <https://www.sageadvocacy.ie/>

Phone: [0818 719400](tel:0818719400) (8.00 - 22.00 daily)

Phone: [01 5367330](tel:015367330) (Monday to Friday 9.00 – 18.00)

Email: [info@sageadvocacy.ie](mailto:info@sageadvocacy.ie)

Address: 24/26 Ormond Quay Upper, Dublin, DO7 DAV9

#### **Irish Advocacy Network**

Website: <https://www.peeradvocacyinmentalhealth.com/>

Phone: [01 547 0510](tel:015470510) (Monday to Friday 9am – 5pm)

Email: [admin@irishadvocacynetwork.com](mailto:admin@irishadvocacynetwork.com)

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Address: Irish Advocacy Network Ltd, 1st Floor, The Tannery Building, 53 – 56 Cork Street, Dublin 8, D08 X31R.

### **Citizens Information**

Website: <https://www.citizensinformation.ie/en/>

Phone: [0818 07 4000](tel:0818074000) (Monday to Friday, 9am to 8pm)

Email: [info@ciboard.ie](mailto:info@ciboard.ie) or [eolas@ciboard.ie](mailto:eolas@ciboard.ie)

Address: Citizens Information Board, Georges Quay House, 43 Townsend St., Dublin 2, D02 VK65

### **The Patient Advocacy Service**

Website: [www.patientadvocacyservice.ie](http://www.patientadvocacyservice.ie)

Phone: [0818 293 003](tel:0818293003)

Email: [info@patientadvocacyservice.ie](mailto:info@patientadvocacyservice.ie)

Address: Level 3 Marshalsea Court, 22/23 Merchants Quay, Dublin D08 N8V

### **Irish Patients' Association**

Website: <https://www.irishpatients.ie/>

Email: [info@irishpatients.ie](mailto:info@irishpatients.ie)

### 3.3 Acknowledgements

Mental Health Ireland strives to adhere to the guidelines for dealing with complaints within the parameters of Health Act 2004 & The Ombudsman Act 1980

Acknowledgement of complaints:

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. (HEALTH ACT 2004)

## 4.0 Stages of the Complaint Management Process

### 4.1 Stage 1. Informal complaints and resolution.

Informal complaints are usually straightforward complaints which can be addressed and managed at the initial point of contact.

#### 4.1.1 What do you need to include in your complaint?

Please detail the particulars of your complaint either verbally or in writing, including your own contact details.

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Specific information such as the below are helpful for Mental Health Ireland to review.

- The names of the affected parties and any Mental Health Ireland / MHA representatives involved.
- What happened and when?
- The nature of your concerns?
- Have you done anything else to resolve this matter?
- How can we work together to resolve the complaint?

#### 4.1.2 Response by Mental Health Ireland

We aim to resolve a complaint at the initial point of contact. Where this is not viable, in the case of informal complaints we aim to reach local resolution within 5 working days and will record the complaint and the resolution.

Where this is not possible, our Complaints Officer will investigate the issues raised. Where a verbal complaint cannot be resolved at point of contact, the Mental Health Ireland / MHA representative dealing with the complaint will refer it to the Complaints Officer.

The complaint progresses to Stage 2.

#### 4.2 Stage 2. Formal Investigation

Unresolved complaints at Stage 1 now move to Stage 2. Complex or serious complaints may commence at this stage also. Senior Mental Health Ireland Management are involved in the investigation and review of Stage 2 complaints. The Complaints Officer registers and initiates a formal investigation of the complaint.

The complainant will receive acknowledgement of their Stage 2 Formal Investigation complaint within 5 days.

Consent of the complainant will be sought prior to communicating with any party prior to investigation.

The Complaints Officer / CEO, Deputy CEO or Operations Manager will inform the complainant in writing of the outcome of the review and the reasons for this within 30 days of receiving the request. If necessary, this response will include a Recommended Action Plan. The decision upheld within this communication is final.

If the complainant is not satisfied with the correspondence, the Complaint moves to Stage 3.

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### 4.3 Stage 3. Formal Review

A Formal review is required for complaints where the Complainant is dissatisfied with the outcome of the complaint investigation at Stage 2.

The complainant can request a review of any Stage 2 final decision within 30 days of the date of the Stage 2 response being issued. Requests must be made in writing and addressed to the Complaints Officer, Mental Health Ireland, 2<sup>nd</sup> Floor Marina House, Clarence Street, Dun Laoghaire, A96 E289

Reasons for review request should include:

- All reasons for disagreement or dissatisfaction with the decision made.
- Any details that they accept or agree with.

The Complaints Officer will acknowledge receipt of the Review Request by return written correspondence within 5 working days. This acknowledgement will detail the next steps available to the complainant.

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.

A Review Officer is appointed to impartially review the nature of the complaint and response from Mental Health Ireland. This Review Officer may be chosen from either HSE Complaints Manager / Office of the Ombudsman or Ombudsman for Children

#### 4.3.1 The Review Officer's function is to:

- To determine the appropriateness of a recommendation made by the Complaints Officer
  - All aspects of the complaint
  - The investigation of the complaint
- Having determined the appropriateness of the recommendation to uphold it, vary it, or make a new recommendation if he/she considers it appropriate to do so.
- Agree an Accountable Officer to implement new recommendations. An Accountable Officer is usually a senior representative in Mental Health Ireland or one of its affiliated Associations.

#### 4.3.2 Implementation of Recommendations made by Review Officer

The Accountable Officer has 30 days to implement recommendations in conjunction with a detailed action plan.

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The Accountable Officer will confirm in writing to the Review Officer, and Complainant the steps taken to address and implement the recommendations.

If recommendations are rejected or not viable, the Accountable Officer will clearly detail the reasons for this decision.

#### 4.4 Stage 4. Independent Review

If the complainant remains dissatisfied with the outcome of the complaints management process, they may seek a review of the complaint independently by the Ombudsman/ Ombudsman for Children.

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

## 5.0 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.

How the appeal is managed depends on the stage of the Complaints policy their complaint is being dealt with.

Stage 1 & 2 – An additional Senior Manager reviews and responds to the complainant.

Stage 3 – An independent person is appointed to review the complaint.

Stage 4 – The complainant seeks independent review via the Office of the Ombudsman / Ombudsman for Children.

## 6.0 Timelines for Making & Managing Complaints

### 6.1 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.

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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 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.

## 6.2 Managing the Complaint

Mental Health Ireland aims to resolve all complaints as early as possible and preferably, at the first point of contact. If an immediate resolution cannot be agreed the following timelines apply to each complaint stage.

### 6.2.1 Stage 1

Acknowledgement: Within 48 hours

Response: Within 5 working days

### 6.2.2 Stage 2

Acknowledgement: Within 5 working days

Response: Within 30 days

### 6.2.3 Stage 3

Acknowledgement: Within 5 working days

Update: Every 20 days until Recommended Action Plan is finalised

Response: upon completion of the Recommended Action Plan, but no later than 90 days.

### 6.2.4 Stage 4

As this stage is under the review of the Office of the Ombudsman, we cannot specify a timeframe.

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## 7.0 Investigation Governance

The right to fair treatment for all is paramount in any investigation process. This right extends to all parties, including the complainant, the Mental Health Ireland / MHA representative and all relevant persons involved in the investigation.

The Complaints Officer or relevant Senior Manager will have the necessary expertise to investigate impartially and within the timelines as depicted above. In certain instances, where the complaints officer or senior manager have limited skill or knowledge in the matters pertaining to the complaint, an expert qualified in the appropriate field may be invited to form part of the investigation.

Investigations may involve formal interviews with relevant parties. Written record of all interviews will be filed in strict adherence to General Data Protection Regulations (GDPR)

Confidentiality and adherence to Data Protection legislation will be prioritised and upheld throughout the investigation.

### 7.1 Confidentiality

All complaints are treated in the strictest of confidence. Only persons of interest within the investigation process are privy to the details of the complaint. Any written record will be held on file in a secure location. The Complaints officer, Deputy CEO and CEO are the only persons to have access to this location.

Mental Health Ireland holds an active Data Protection Policy and is contracted to an external Data Control agency to ensure GDPR is upheld.

Confidentiality is of utmost importance to Mental Health Ireland.

## 8.0 Matters excluded (As per Part 9 of the Health Act)

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 Health Services Executive (HSE)n or a service provider

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- c. An action taken by the HSE 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 or affecting the terms or conditions of a contract of employment that the Executive or a service provider proposes to enter or of a contract with an adviser that the HSE proposes to enter into under section 24 of the Health Act.
- e. a matter relating to the Social Welfare Acts.
- f. a matter that could be the subject of an appeal under section 60 of the Civil Registration Act 2004.
- g. a matter that could prejudice an investigation being undertaken by the Garda Siochana.
- h. 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.

## 9.0 Complaints that cannot be investigated.

The Complaints Officer may, under certain circumstances decide to reject a complaint. The complaints officer shall inform the complainant in writing of the refusal to investigate and the reasons for refusal within 5 working days.

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### 9.1 A complaints officer shall not investigate a complaint if

1. the person who made the complaint is not entitled to do so either on the person's own behalf or on behalf of another,
2. the complaint is made after the expiry of the period specified, being 12 months.

### 9.2 Decision not to continue

A decision 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 has reason to believe that

1. the complaint does not disclose clear grounds for the complaint
2. the subject-matter of the complaint is excluded by section 7.0
3. the complaint is vexatious or not made in good faith,

## 10.0 Vexatious complaints

In a small minority of cases despite all Mental Health Ireland's efforts to take all reasonable measures to try to resolve a complaint through the complaint's procedure, the complainant may not accept Mental Health Ireland'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, any further communication can be acknowledged but not actioned.

In every acknowledgement the complainant will 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 Anonymous Complaints

Anonymous complaints cannot be fully investigated due to lack of information and inability to follow due process. Mental Health Ireland will record the content of anonymous complaints and communicate with the relevant work stream to ensure welfare of staff, volunteers, and members of the public.

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## 12.0 Redress

Mental Health Ireland are committed to an effective complaints system which may include redress where appropriate.

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 measurable loss, detriment, or disadvantage was suffered or sustained by the claimant personally.

This redress could include:

- Apology
- An explanation
- Refund
- Change of decision
- Replacement
- Repair/rework
- Correction of misleading or incorrect records
- Technical or financial assistance

## 13.0 Recording and Monitoring Complaints

Mental Health Ireland are obliged under funding regulations to send quarterly statistics to The National Complaints Governance and Learning Team. No personal data is given in this quarterly report.

To strive for growth and best practice, Mental Health Ireland keep a record of all complaints, recommendations, and outcomes as standard. No personal data is stored in this record matrix.

For the duration of the complaint and for an additional 24 months., Mental Health Ireland retain a written record of all correspondence between all relevant parties involved in the investigation. Personal details given by the complainant are held in these files.

The Complaints Officer ensures that GDPR legislation is adhered to at all stages of record keeping.

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## 14.0 Compliments & Feedback.

We welcome all feedback and compliments. These can be made either in writing, via letter or email, by phone or in person.

**In Person:** Talk to any member of Mental Health Ireland staff.

**By Email:** E-mail [info@mentalhealthireland.ie](mailto:info@mentalhealthireland.ie) with your feedback.

**By Letter:** Send a letter addressed to our Complaints Officer, Mental Health Ireland, 2<sup>nd</sup> Floor Marina House, Clarence Street, Dun Laoghaire, A96 E289

**By Phone:** 01-2841166

We commit to communicate the compliments received to the appropriate person or persons identified.

## 15.0 Details of the Current Complaints Officer

Maria Walsh-Healy  
Complaints Officer, Mental Health Ireland  
Second Floor, Marina House  
11-13 Clarence Street  
Dun Laoghaire  
County Dublin.  
A96 E289

Phone: 01 2841166

Email: [info@mentalhealthireland.ie](mailto:info@mentalhealthireland.ie)

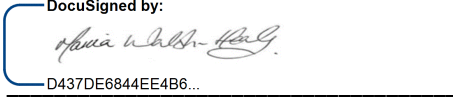
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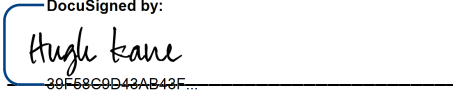
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## 16.0 Signoff

Policy signed by Author (Staff Member):  D437DE6844EE4B6...

Name: Maria Walsh-Healy  
Date: 29/07/2023

Approval by Chairperson of the Board:  39F68C9D43AB43F...

Name: Hugh Kane  
Date: 29/07/2023

Approval by board Member:  9CA3358B06C34DA...

Name: Robert O'Connell  
Date: 29/07/2023

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