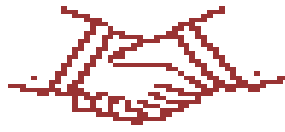


# DRUMCONDRA HOME HELP & CARE SERVICES CLG



<b>Policy No: 009</b> Regulation Policy	<b>Authorised by: Quality &amp; Safety Committee</b>	<b>Date: 27<sup>th</sup> May 2022</b>
<b>Version No: 1</b>	<b>Reviewed by:</b> <b>Martha McGinn, RNID, B.Sc.,</b> <b>Karen Henshaw CEO DHHCS</b>	<b>Next Review Date: May 2024</b>
<b>References:</b> Health Act 2004 Part 9 Health Act 2004 (Complaints) Regulations 2006 Health Act 2007 Part 13 Health Act 2007 Draft Home Support Regulations HIQA National Standards for Residential Services for Adults and Children with disabilities Freedom of Information Acts 2014 Data Protection Acts 1988/2003/General Data Protection Regulation (GDPR enacted May 2018) Ombudsman's Act 1980-1984 Ombudsman for Children's Act, 2002		
The Handling and Investigation of Complaints Policy		

## 1.0 Policy Statement

Drumcondra Home Help & Care Services CLG (hereinafter called 'DHHCS') have a responsibility to ensure that people who use the service, their families and members of the public are aware of their right to make a complaint and the complaints policy should be made available to them.

This policy is developed in line with 'Your Service, Your Say' HSE Policy for the Management of complaints. Other DHHCS policies and procedures which are related to and compliment this policy are:

- Safeguarding of Vulnerable Persons at Risk of Abuse
- Protected Disclosure/Good Faith Reporting Policy

DHHCS commits to safeguarding the rights and dignity of people who use the service, their families and staff members in the implementation of this policy and associated supporting documents.

Complaints, criticisms or suggestions, whether oral or written will be taken seriously and handled appropriately and sensitively.

The complaints handling process will be implemented without fear, favour or prejudice towards the Complainant, or the person or service about which the complaint was made.

## **2.0 Aim of this Policy**

The aim of this policy is to outline how people can make a complaint and to ensure that any complaints received are dealt with in a fair, transparent and appropriate way and resolved to the satisfaction of the Complainant where possible.

The aim of this policy is to meet the requirements of relevant national policies, legislation and regulations.

### **Definition of a complaint**

*The Health Act 2004 states that a **Complaint** means a complaint made about any action of the Executive (HSE) or a Service Provider 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.***

## **3.0 Scope of this Policy**

This policy may be used by any person including a person who is being or was provided with a service from DHHCS or who has sought provision of such service.

The person may complain in accordance with the procedures established under this policy about any action of the Service that

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

*An action does not accord with fair and sound administrative practice if it is:*

- *taken without proper authority,*
- *taken on irrelevant grounds,*
- *the result of negligence or carelessness,*
- *based on erroneous or incomplete information,*
- *improperly discriminatory,*
- *based on undesirable administrative practice, or*
- *in any other respect contrary to fair or sound administration.*

All complaints will be received and considered by DHHCS however, the Health Act 2004 details a number of complaints that are not included under Part 9 of the Health Act. (Appendix 1)

Some concerns/complaints received will be addressed using other DHHCS policies as outlined below:

<b>Type of issue/concern/complaint</b>	<b>Policy to be used</b>
Allegation of abuse of an adult using DHHCS's services and supports	Safeguarding of Vulnerable Persons at Risk of Abuse Policy
Concerns/complaints	Managing Complaints Policy
Complaints by staff of any inappropriate behaviour of other staff at work	Dignity at Work Policy
Grievances by staff related to terms and conditions /work practices	Grievance procedure
Management of records and personal information.	Data Protection / Record Management Policy

#### **4.0 General Procedures**

DHHCS will communicate with the Complainant throughout the process and endeavour to resolve the complaint to the Complainant's satisfaction as close to the point of contact as possible.

DHHCS respects the Service User's and/or their nominated representative's choice of advocate will engage with the relevant advocacy service at all stages of the complaints process, in accordance with the wishes of the Service User.

Complaints which pose a risk to the wellbeing of a Service User shall be reported immediately to the Commissioner of Services.

DHHCS will have a system in place to analyse complaints, to ensure that lessons are learnt from patterns of complaints made and the quality of the service is improved.

DHHCS has a designated Complaints Officer, the role of the Complaints Officer is to ensure complaints are appropriately managed. (see Appendix 3 for contact details). Where the Complaints Officer is subject to a complaint or is unable to review a complaint a Manager will be appointed by the CEO to address the complaint. In this instance the CEO will appoint a temporary Complaints Officer to address the complaint.

All information obtained through the course of complaint management will be treated in a confidential manner and in line with current Data Protection and Freedom of information legislation. The complaints process will facilitate the gathering of essential and appropriate information to ensure the effective management of the complaint and the education of the organisation without compromising the rights of all parties involved.

DHHCS staff have an obligation to participate and support the investigation of any complaint where requested.

- DHHCS commits to providing training to all staff to enable them to effectively implement the complaints management policy.
- A copy of the complaints management policy will be published on the DHHCS website.
- It is the responsibility of all staff in DHHCS to respond to and resolve complaints at the first point of contact wherever possible. Staff should use the Listen Approach outlined in Appendix 2 as appropriate.
- The Client Care Manager will ensure complaints are reported in line with the process outlined in Section 2 of this policy.
- Care Staff will discuss repeated 'local resolution' complaints with their Line Manager to decide if the matter should be escalated to the Complaints Officer for further investigation/informal resolution.
- The Complaints Officer will ensure all written complaints are managed within the agreed timeframes.
- DHHCS will ensure that staff carrying out investigations have the appropriate training and experience.

#### **4.2 Making a Complaint**

- A complaint can be made in a number of ways including:
  - In person
  - By telephone
  - By letter
  - By email

A complaint can be made to any staff member, manager or director of DHHCS.

If a complaint is being made about a particular person and the person's name is being given, the complaint must be written, giving details such as dates and locations so that the person dealing with the complaint can check the facts of the complaint.

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 Complaints Officer will determine if the complaint meets the time frames as set out in Section 47, Part 9 of the Health Act 2004. The Complaints Officer may extend the time limit for making a complaint if

they are of the opinion that 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.
- ✓ Where extensive support was required to make a complaint and this took longer than 12 months.

Where a complaint does not meet the time frame of 12 months the Complaints Officer will notify the Complainant within 5 working days of the decision to extend/not extend time limits to accepting a complaint.

#### **4.3 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 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 or the Ombudsman for Children and that is referred by him or her to a Complaints Officer.

#### **4.4 Acknowledgement of a complaint**

When a complaint has been received, DHHCS will endeavour to deal with the complaint effectively and efficiently. Complaints being dealt with formally will be acknowledged within 5 working days and will outline to the Complainant the steps to be taken in investigating the complaint and the time limits for the completion of the investigation.

DHHCS will endeavour to resolve complaints to the satisfaction of the Complainant in strict accordance with the process for managing complaints in DHHCS.

## 5.0 Stages of Managing a Complaint

There are 4 stages to DHHCS's Complaints process as follows:

Stage 1	Local Resolution	Verbal complaint resolved at point of contact
Stage 2	Informal Resolution	Written/Verbal complaint resolved through discussion
Stage 3	Formal investigation	Written complaint investigated and findings documented in a written report stating outcome i.e. Complaint Upheld/Partially upheld/Not Upheld
Stage 4	DHHCS Internal Review	Complainant not accepting the outcome of an Investigation can request that the organisation carry out a review of the procedures used to manage the complaint.
Stage 4	Independent Review	Complainant dissatisfied with outcome of the Internal Review, seeks a review by the Office for the Ombudsman/Ombudsman for Children

### 1. Stage 1

DHHCS will make every effort to resolve verbal complaints at the point of contact. Where this is not possible DHHCS will seek the consent of the Complainant to resolve it through informal resolution. This will involve:

1. clarifying the complaint
2. informing all parties of their right to be accompanied by a support person/an advocate or a third party to any meeting/s held in relation to the complaint
3. meeting/s with the Complainant giving them an opportunity to give their version of events and to provide evidence/explanations to verify the complaint.
4. meeting/s with other relevant parties giving them an opportunity to give their version of events and to provide evidence/explanations in relation to their actions.
5. confirming the outcomes/agreement reached in any discussion with the participants
6. giving the Complainant the opportunity to identify what they would like to happen as a result of making the complaint.
7. managing the expectations of the Complainant and being clear with Complainant about what can and cannot be achieved through the investigation.

8. determining the sequence of events leading to the complaint and the root causes of the complaint.
9. ensuring any conclusions about the complaint are based on a logical flow to the evidence supporting the complaint.
10. affording the person concerned the opportunity to consider any adverse proposed findings or criticism and to make representations in relation to them.

DHHCS may offer Mediation by a mutually agreed 3<sup>rd</sup> party to attempt informal resolution of the complaint. Both the Complainant and those to whom the complaint relates must agree to using Mediation.

## **Stage 2**

Where a complaint cannot be resolved by Local/Informal Resolution the Complaints Officer will, if appropriate, set up a formal Investigation into the complaint,

When the investigation of the complaint is complete the investigator will produce a written report which will include:

- Description of the complaint
- Steps in the Investigation
- Background to the Complaint/Sequence of events
- Findings of the investigation i.e. the outcome of each element of the complaint and whether it is upheld/partially upheld or not upheld. Including an explanation of the judgement
- Recommendations which they consider appropriate • Appendices as relevant e.g. Notes of Meetings, records etc.

At the end of the investigation, the Investigator will 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.

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

## **Stage 3**

If the Complainant does not accept the findings in the Investigation Report, he/she may seek a review of the process used to manage the complaint by applying to CEO of DHHCS within 30 days of the report being issued. (see Appendix 3 for contact details.) The CEO will appoint Review Officer to review the process of how the complaint was managed.

The Review Officer's function is to:

- (i) To determine the appropriateness of a recommendation made by the Investigator, having regard to the two elements:
- a. All aspects of the complaint
  - b. The investigation of the complaint
- (ii) 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. This recommendation will be outlined in writing to the CEO within 30 working days of receiving instructions to carry out the review. The CEO makes this report available to the Complainant and Complaints Officer.

#### Stage 4

If the Complainant does not accept the outcome of DHHCS Internal review they may seek a review of the complaint by the Ombudsman/Ombudsman for Children. (see Appendix 3 for contact details)

### 6.0 Timeframes involved once a complaint is received by the Complaints Officer in DHHCS

#### 6.1 Complainant Timelines:

- To make a complaint: 12 months
- To withdraw a complaint: At any stage
- To request a review of how the complaint was handled: 30 working days from date of complaint was issued.
- To refer a complaint to the Ombudsman: At any stage

#### 6.2 All Staff/Line Managers:

Respond to a request for information: **within 10 working days**

- To address an informal complaint at point of contact: **Immediately** or less than **48 hours** where possible

#### 6.3 Complaint Officer Timelines:

Where the Complaints Officer determines that the complaint does not meet the criteria detailed in 1.3, 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 have the investigation concluded **within 30 working days** of it being acknowledged.

Where the investigation cannot be investigated, and concluded within 30 working days then the Complaints Officer 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 Complaints Officer/Designate must update the Complainant and the relevant staff/service member **every 20 working days**.

The Complaints Officer must endeavour to conclude the investigation 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 complaints within **6 months of the receipt of the complaint**.

If this timeframe cannot be met, the Complaints Officer/Designate 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 DHHCS complaints management process while informing them that they may bring their complaint directly to the Ombudsman.

Any review of the complaint should be concluded within **30 working days** and an acknowledgement letter outlining the outcome of the review including any actions (if any) should be forwarded to the Complainant within **30 working days**

#### **7.0 Vexatious, Malicious or Anonymous complaints**

The complaints handling process will provide protection and support to a person or service where it is deemed that a complaint has been made without sufficient grounds or with the conscious desire to cause harm to that person or service.

DHHCS views the making of a malicious or vexatious complaint against any staff member with the utmost seriousness and any such complaints, found to be malicious or vexatious may be referred to the Garda Authority.

If a complaint is found to be vexatious or malicious DHHCS will not pursue the complaint any further. The Complainant (if identified) will be notified of their right of review to the National Advocacy Unit if they are not happy with the outcome of this decision.

Anonymous complaints will not normally be investigated as there is always a possibility that they are vexatious or malicious and the anonymity of the Complainant does not enable the principles of natural justice and procedural fairness to be upheld. In particular, anonymous complaints about an employee of DHHCS cannot be investigated as this is contrary to the rights of the employee concerned.

Complainants must provide contact details when making a complaint against DHHCS to enable appropriate validation and investigation of that complaint.

If a Complainant makes a complaint in confidence, the identity of the Complainant will only be known to the recipient of the complaint and the Complaints Officer, however in order to carry out a full and proper investigation of the complaint, the Complainant may have to give consent to have their identity disclosed.

Details of anonymous complaints will be made available to relevant service managers for consideration as appropriate.

## **8.0 Advocacy**

All Complainants have a right to appoint an Advocate or nominated representative to assist them in making their complaint and to support them in any subsequent processes in the management of that complaint.

DHHCS will support people who use the service who wish to make a complaint and who otherwise would find it difficult or impossible to make such a complaint themselves, to source appropriate advocacy services e.g. The National Advocacy Service for People with Disabilities (Telephone: 0761 07 3000.)

## **9.0 Redress**

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

Redress will be consistent and fair for both the Complainant and DHHCS.

DHHCS 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
- Admission of fault
- Change of decision
- Correction of misleading or incorrect records
- Technical assistance
- Recommendation to make a change to a relevant policy or law

## **10.0 Learning from Complaints**

DHHCS is committed to learning from complaints and will view each complaint as an opportunity for improvement.

DHHCS's Complaints Officer will monitor the complaints received and ensure that complaints are discussed at management meetings as appropriate for the purpose of learning and service improvement.

DHHCS will report complaints to the HSE and HIQA if required by.

## **11.0 Meeting Regulatory Requirements under Part 10 of Care and Support Regulations 2013 Complaints procedure**

DHHCS provides a complaints procedure for Service Users in an accessible and age- appropriate format and this includes an appeals procedure,

Each Service User and their family aware of the complaints procedure a copy is provided along with the persons Care Agreement.

Where relevant the person will be provided with information on Advocacy services for the purposes of making a complaint;

The Complaints Officer keeps a record of all complaints including details of any investigation into a complaint, outcome of a complaint, any action taken on foot of a complaint and whether or not the resident was satisfied.

DHHCS will maintain a system to track and analyse all complaints, ensuring that lessons are learnt from any patterns of complaints made and the quality of the service is improved.

## **12.0 Recording of Complaints**

Complaints are recorded in a file on a secure filing system accessible by named management personnel.

## **13.0 Refusal to investigate or further investigate complaints**

(1) A Complaints Officer shall not investigate a complaint if —

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,

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)*.

A 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.

A Complaints Pfficer shall, **as soon as practicable** after determining that he or she is 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.

#### **14.0 Annual Report to the HSE**

DHHCS may be asked to provide a report to the National Complaints Governance & Learning Team (NCGLT) on complaints received in the previous year and this request will be facilitated by the Complaints Officer. This report will include information on the complaints they received in the previous year. This includes the total numbers received, the nature of the complaints, the numbers resolved informally and the outcome of any investigations that were undertaken.

#### **15.0 Appendices**

*Appendix 1: The Listen Approach*

Appendix 2: Contact Details for Making a Complaint

## Appendix 1

### **The Listen Approach**

#### **1.1 Use the LISTEN approach to assist you when receiving a verbal complaint**

##### **Listen:**

- Listen carefully to the issues being raised by the Complainant

##### **Identify:**

- Identify if there are multiple issues relevant to the complaint and separate each issue. Attempt to identify any hidden or underlying issues that may exist.
- Summarise the issues to clarify and check that you understand what the person is telling you.
- Ask the Complainant to confirm that they agree with your interpretation of their complaint.
- Find out from the Complainant what they want to happen as a result of their complaint.

##### **Summarise:**

- Summarise the issues to clarify and check that you understand what the person is telling you.
- Ask the patient / service user to confirm that they agree with your interpretation of their complaint

#### **1.2 Thank the person**

- Thank the person for taking the time to make the complaint

##### **Empathise and Explain:**

- Empathise and acknowledge the feelings of the Complainant.
- Explain to the Complainant that there will be no negative repercussions
- Explain what will happen next e.g. you may need to contact your manager *Expression of regret or apology:*
- An early expression of regret or apology can minimise the possibility of a verbal complaint becoming a formal written complaint
- Training for staff must deal with the area of expression of regret and apology. Staff must also be given the skills to recognise when a complaint can or cannot be resolved at first point of contact and when the complaint needs to be referred to Complaints Officer for appropriate management.

##### **Now Act:**

- Assess the verbal complaint
- Once a verbal complaint is received, the person receiving the complaint must ensure that they get as much information as possible about the complaint to assist them in assessing the seriousness and/or the complexity of the complaint. This in turn assists staff in determining if the complaint should be resolved at the point of contact or if the complaint should be referred to the Complaints Officer for management at Stage 2 of the complaint management process.

Staff should only attempt to manage complaints received at the point of contact if due care has been taken to establish that all issues can be addressed appropriately at the point of contact.

**Appendix 2**

***Contact Details for Making a Complaint***

DHHCS's Complaints Officer

Karen Henshaw  
DHHCS  
Address 1,  
Address 2,  
Co Dublin  
Eircode

Email: [karenhenshaw@dhhcs.ie](mailto:karenhenshaw@dhhcs.ie)

Tel: 01 8083889

HSE Head of Consumer Affairs

HSE,  
Oak House,  
Millennium Park,  
Naas  
Co. Kildare

Office of the Ombudsman

Office of the Ombudsman, 6  
Earlsfort Terrace, Dublin 2.

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

