

# **Donegal Travellers Project**

## **Complaints Policy and Procedures**

**Updated July 2020**

## 1.0 Introduction & Purpose

This policy emphasises that we must work to resolve complaints as quickly and as close to the point of contact as possible.

This policy has been developed, considering the role of the Health Service Executive as one of our primary funders, to ensure compliance with our obligations under the Health Act 2004 (Complaints) Regulations 2006.

Recognition of the role of the Office of the Ombudsman has also been taken into consideration.

The principles upon which this policy is based include:

- Accessibility
- Simplicity
- Speed of response
- Fairness

## 1.1 Definition of a complaint

A complaint can be made about something not done correctly, something that should have been done but was not, or concerning an employee. Complaints are useful to the organisation. Each complaint is viewed as an opportunity to review our services and business.

As per the Health Act 2004 –

‘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.

## 2.0 Responsibilities of Donegal Travellers Project Employees

- Each employee is expected to understand and comply with the guidelines in the handling of complaints as set out in this policy.
- Each employee is expected to respond in a courteous manner to anyone raising a concern or making a complaint.
- Each employee is expected to treat any concerns or complaints brought to him/her in an appropriate and confidential manner.
- If an employee receives a complaint about a peer or colleague he/she should explain that he/she is not the appropriate person to deal with the complaint. The complainant should be referred to the relevant manager.
- An employee must not to engage in debate or give a personal opinion about the

action(s) of any other colleague.

- A record of all complaints must be kept including verbal complaints. The receiving manager has responsibility for this.
- Each complaint should be reviewed retrospectively to allow the organisation to identify any trends and support appropriate service development as indicated.

### **3.0 Application of this Policy**

#### **3.1 Internal Complaints Management Process**

Timelines for dealing with complaints are outlined in **Appendix 4**.

##### **Stage I: Local resolution of verbal complaints at point of contact (Point of Contact Resolution)**

- (a) Employees must have clear delegations to resolve verbal complaints at first point of contact wherever possible.
- (b) A record of the complaint must be made by the employee and passed to his/her relevant manager (Appendix 2).
- (c) Where the complaint is resolved at the point of contact, the complaint must be examined to identify any quality improvements that should be implemented as a result.
- (d) Where complaints cannot be resolved at the first point of contact, due to their seriousness or complexity, these complaints must be referred to the relevant manager and record the complaint on the form shown at Appendix 2.

##### **Stage 2(a): Informal resolution or Stage 2(b): Formal Investigation**

- (a) Complaints that either cannot be resolved at Stage 1 or should not be resolved at the first point of contact, due to their seriousness or complexity, are then passed to the relevant Manager for resolution by informal means or through formal investigation. Where informal resolution or mediation was not attempted or not successful, the relevant manager will initiate a formal investigation of the complaint.
- (b) The Manager is responsible for carrying out the investigation at this stage but may draw on appropriate expertise, skills etc. as required. Employees have an obligation to participate and support the investigation on any complaint where requested.

#### **3.2 The investigation process**

- Every complaint is different so the approach to investigation and resolution will differ, depending on the nature of the complaint and issues raised. Any

investigation will be proportionate to the nature and degree of seriousness of the complaint.

- The complainant will have a clear remit to resolve the complaint or have access to the person who has authority to do so.
- The manager may investigate the complaint directly or appoint an individual (investigating officer) or team to carry out an investigation on his/her behalf, as appropriate.
- Any investigation within Donegal Travellers Project will be undertaken within the framework of all relevant Donegal Travellers Project policies and procedures. These policies are as follows:

Donegal Travellers Project – Policies and Procedures

Good Governance Code

Lone Workers Policy

Employee Code of Conduct Policy

Data Protection Policy

Donegal Travellers Project Child Protection Policy

Staff Support and Supervision Policy

Policy and Risk Assessment of Vulnerable

Good Faith Reporting

Anti- Bullying Policy

Risk Management Policy

Volunteer Policy

Equal Opportunity Policy

- Any investigation within Donegal Travellers Project will respect the privacy and confidentiality of all concerned.
- All investigations will be approached in a fair and impartial manner.
- The manager/investigating officer will, where appropriate, make personal contact with the complainant to clarify and request the complaint in writing, if not previously received. In the event of low literacy levels, the manager or investigating officer with either support the complainant or appoint an impartial officer to support the complainant in writing the complaint within the framework of all relevant Donegal Travellers Project policies and procedures.
- All evidence will be fully documented. The content of any meetings will be simultaneously recorded and signed by both parties. In the event of no agreement on the record, the work will proceed with available records.

### **3.3 Internal Review by Donegal Travellers Project**

- Should the complainant not be satisfied with the response to a complaint he/she

may contact the manager to discuss the matter further.

- If the complainant remains unsatisfied; an appeal can be lodged in writing within 30 working days of the formal notification of the outcome of the investigation of the complaint. The complainant may seek a Review of their Complaint if dissatisfied and should write to: Mr. John Hayes, Chief Officer, CHO1, An Clochar, College Street, Ballyshannon, Co. Donegal. The Chief Officer or Complaints Manager, CHO1, may appoint a Review Officer.
- The Review Officer will review the information available and may seek further clarification. He/she may contact the complainant to discuss the matter further and will then decide on an appropriate course of action.
- This action will be confirmed in writing to the complainant (acknowledgement letter) within 5 working days of the receipt of the written appeal. The complainant will also be advised of his/her right to refer their complaint to the Ombudsman. The Review Officer should complete the review within 20 working days of the acknowledgement letter.
- The review will be conducted in private and all information obtained will be deemed confidential.
- The review officer will issue his/her findings and recommendations in a report to the Board of Management, the project manager and the complainant. The project manager will notify the complainant within thirty (30) days of the steps being taken as are reasonable to implement the all or some of the recommendations of the review. Reasons for not implementing some recommendations will be set out in writing to the complainant.

### **3.4 Complaint Procedures and the Ombudsman**

The Review Officer will advise the complainant of his/her right to make a complaint to the Ombudsman.

If the complainant is dissatisfied with our decision on the complaint it is open to the complainant to contact the Office of the Ombudsman.

The Ombudsman provides an impartial, independent and free service. By Law, the Ombudsman can examine complaints about any of their administrative actions or procedures as well as delays or inaction in their dealings with the complainant.

Contact details are as follows:

#### **The Office of the Ombudsman**

6 Earlsfort Terrace,  
Dublin 2,  
DO2 W773

Phone: LoCall 1890 22 30 30 or (01) 639 5600

Email: [complaints@ombudsman.ie](mailto:complaints@ombudsman.ie)

You can also make a complaint online using the complaint form on [www.ombudsman.ie/making-a-complaint/make-a-complaint/](http://www.ombudsman.ie/making-a-complaint/make-a-complaint/)

#### **Ombudsman for Children's Office**

Millennium House  
52-56 Great Strand Street  
Dublin1, D01 F5P8  
Phone: 01 865 6800

#### **4.0 Redress**

Redress is consistent and fair for both the complainant and the department against which the complaint was made. Donegal Travellers Project 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:

- A sincere and meaningful apology
- An explanation
- An admission of fault
- A change of decision
- A replacement
- A correction of misleading or incorrect record
- A recommendation to make a change to a relevant policy

A manager may not make a recommendation, the implementation of which would require or cause Donegal Travellers Project and the HSE to make a material amendment to an arrangement under the Health Act 2004.

#### **5.0 Trivial or Vexatious Complaints and Anonymous Complaints**

- Vexatious complaints are excluded under Part 9 of the Health Act 2004. A manager may cease to investigate a complaint on the grounds that it is trivial or vexatious or that it does not come within the scheme.
- Anonymous complaints will be considered where there is sufficient information provided to allow Donegal Travellers Project investigate the complaint.
- Where there is not sufficient information provided, Donegal Travellers Project may decide to take no further action but will file the complaint in case it becomes clear that action is required at a later date. The matter raised in an anonymous complaint may be considered or kept under review where the issues may impact Donegal Travellers Project or its staff or clients.

#### **6.0 Annual Report to the HSE**

Donegal Travellers Project will provide the HSE with a **statistical report, twice yearly**, on the complaints received during the previous year indicating:

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

## Appendix 1

### Definitions

**“Complaint”** (as per the Health Act 2004) means a complaint made about any action of the Donegal Travellers Project that 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.

**“Complainant”** refers to the party or individual that is making the complaint.

**“Manager”** means a person designated by Donegal Travellers Project for the purpose of dealing with complaints made in accordance with procedures established under this policy.

**“Investigating Officer”** means an appropriately trained person or persons appointed by the manager for the purpose of investigating a complaint.

**“Advocate”** means a trusted person, appointed to assist complainants in making their complaint and to support them in any subsequent processes in the management of that complaint. An employee may also act as an advocate if it is possible to do so within the principles of advocacy as set out in The Comhairle Act (2005).

**“Review Officer”** refers to an officer to whom the CHO1 Complaints Manager, HSE, assigns the responsibility carryout a review of a complaint and its handling.

## APPENDIX 2

### Donegal Travellers Project Complaint Report Form

**A: Your details**

Surname:

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Forename(s):

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Title: Mr/Mrs/Miss/Ms/if other please state: \_

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Address:

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Your email address:

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Daytime phone number

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Mobile number

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Please state by which of the above methods you would like us to contact you:

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**Your requirements**

If our usual way of dealing with complaints makes it difficult for you to use our service, please tell us so that we can discuss how we might assist you.

The person who experienced the problem should normally fill in this form. If you are filling this in on behalf of someone else, please fill in section B. Please note that before taking forward the complaint we will need to satisfy ourselves that you have the authority to act on behalf of the person concerned.

**B: Making a complaint on behalf of someone else:**

**Their details**

Their name in full:

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Their address

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What is your relationship to them?

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Why are you making a complaint on their behalf?

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**[Form continued on next page]**

**C: About your complaint (Please continue your answers to the following questions on a separate sheet(s) if necessary)**

What do you believe we did wrong or failed to do?

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Describe how you personally, or the person you are representing, has been affected

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What do you think should be done to put things right?

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Have you already put your concern to the frontline staff responsible for delivering the service? If so, please give brief details of how and when you did so.

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If you have any documents to support your concern/complaint, please attach them with this form.

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

When you have completed this form, please send it to:

**Siobhan McLaughlin**  
**Port House**  
**Port Road**  
**Letterkenny**  
**Co. Donegal**  
**Email:** [travcom@eircom.net](mailto:travcom@eircom.net)  
**Tel:** 074 9129281

## APPENDIX 3

### Exclusions to the Application of the Complaints Policy

Under the specific procedures and circumstances set out in the Health Act 2004, a person is not entitled to use the procedures/make a complaint about any of the following matters:

- A matter that is or has been subject to legal proceedings before a court or tribunal.
- A matter solely relating to the exercise of clinical judgement.
- Actions taken solely on the advice of a person exercising clinical judgement.
- A matter relating to the recruitment or appointment of employees.
- A matter relating to or affecting the terms or conditions of a contract of employment.
- A matter relating to the Social Welfare Acts.
- A matter relating to the registration of births, marriages and deaths that could be the subject of an appeal.
- A matter that could prejudice an investigation being undertaken by an Garda Síochána.
- A matter that has been brought before any other statutory complaints procedure (e.g. Disability Act, Health and Social Care Professional Act 2005)

Where a complaint relates to an excluded matter, the manager, to the greatest extent possible, will advise the person where the complaint might be more properly referred.

## Appendix 4

### Timelines for Dealing with Complaints

- The Manager will acknowledge receipt of the complaint in writing within five (5) working days advising that the complaint has been received
- The acknowledgment will outline the process to be undertaken in investigating the complaint and the time limits for the completion of the investigation
- The target date for resolution of complaints is thirty (30) working days. Where the thirty (30) working days' time frame cannot be met despite every best effort, the manager must endeavour to conclude the investigation of the complaint within six (6) months of the receipt of the complaint.
- If this timeframe cannot be met, the manager must inform the complainant that the investigation is taking longer than six (6) months, give an explanation why and outline the options open to the complainant.
- The complainant and relevant employee must be updated every twenty (20) working days.
- If the original timescale cannot be met, the manager who commissioned the investigation must be informed and the reason outlined in writing to the complainant.

Section 47, Part 9 of the Health Act 2004 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 time limit for making a complaint may be extended if, in the opinion of the manager, special circumstances make it appropriate to do so. These special circumstances may include but are not exclusive to the following:

- If the complainant is ill or bereaved.
- If new relevant, significant and verifiable information 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 - the manager must notify the complainant within 5 working days of a decision to extend or not extend the time limits.