

# Service Users Safety, Protection and Complaints Policy

**Policy and procedure for handling complaints from service users, external organisations, other agencies or members of the public.**

## Introduction

Where standards of care, treatment and practice are perceived to fall short of what is acceptable, in these circumstances, the complainant should have ease of access to an effective and fair system to deal with their complaint. West Limerick Independent Living, in accordance with Part 9 of the Health Act, 2004 is committed to providing a system for the management of complaints that facilitates effective feedback from and communication to all service users.

Responding effectively to complaints received and learning from them is a key aspect to providing a high quality customer focused service.

West Limerick Independent Living aims to create an environment where service users feel comfortable and have the opportunity to provide feedback about services experienced and equally where staff, feel comfortable about taking ownership of this process. All staff members have a responsibility to participate and take responsibility in managing complaints and other such feedback as appropriate.

Co-operation with the investigation of a complaint is essential and the use of a standardised approach is of benefit to complainants and to staff. The emphasis is on the swift and positive resolution of complaints at local level where possible. Consideration and willingness to listen may be all that is necessary in some cases. It is also important to recognise that complaints are often useful to the organisation, service and individual members of staff.

Each complaint should be viewed as an opportunity to review a service, or an aspect of the service, and, where indicated, support development or change. This policy is in place to facilitate the quick, fair and complete investigation of complaints.

## Definitions

### Complaint

(Definition 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 adversely affects the person by whom or on whose behalf the complaint is made;

A complaint means any action of the West Limerick Independent Living 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.

### Action

An 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

### **Who can make a complaint?**

1. Any person who has received or sought services from West Limerick Independent Living
2. If a person is entitled to make a complaint but is unable to do so because of age, illness or disability, the complaint may be made on that person's behalf by;
  - a close relative or carer of the person (parent, guardian, son, daughter or spouse or is cohabiting with the person)
  - any person who legally has the care of the affairs of that person,
  - any legal representative of the person,
  - any other person with the consent of the person
  - If a person who would otherwise have been entitled to make a complaint is deceased, a complaint may be made by a close relative or carer of that person.

### **Time limits**

The Health Act 2004 specifies the following:

- A complaint must be made within 12 months of the date of the action giving rise to the complaint
- Within 12 months of the complainant becoming aware of the action giving rise to the complaint
- A Complaints Officer may extend the time limit for making a complaint if in the opinion of the Complaints 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
  - 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

Complaints officer must notify the complainant in writing of decision to extend / not extend time limits within 5 working days.

### **Complaints Officer**

For West Limerick Independent Living the role of the Complaints Officer specified in the legislation will be carried out by the Manager or nominees acting in the role of Investigation Officer.

### **How can a complaint be made?**

Complaints can be made by letter, by fax, by email, by using the West Limerick Independent Living Customer complaints form or verbally, in face-to-face or telephone communication. Complainants will be allowed the flexibility to lodge a complaint with either a staff member or a service manager.

### **Purpose**

The Purpose of this document is to detail the guiding principles, statutory requirements and the policy of the West Limerick Independent Living in relation to the handling of complaints. This is to ensure compliance with the terms specified for the treatment of complaints by Service Providers who are providing a service on behalf of the HSE as defined by section 38 and 39 of the Health Act 2004.

The Health Act 2004 states that a **Complaint** means a complaint made about any action of the Executive, 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.

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 received will be considered by West Limerick Independent Living however, the Health Act 2004 details a number of complaints that are not included under Part 9 of the Health Act. These complaints are in relation to:

- a matter that is or has been the subject of legal proceedings before a court or tribunal;
- a matter relating solely to the exercise of clinical judgment by a person acting on behalf of either the Executive or a service provider
- an action taken by the Executive or a service provider solely on the advice of a person exercising clinical judgment
- a matter relating to the recruitment or appointment of an employee by the Executive or a service provider
- 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 (includes terms or conditions relating to superannuation benefits, disciplinary procedures or grievance procedures)
- a matter relating to the Social Welfare Act;
- a matter that could be the subject of an appeal under section 60 of the Civil Registration Act 2004;
- a matter that could prejudice an investigation being undertaken by the Garda Síochána;
- a matter that has been brought before any other complaints procedure established under an enactment.

In the instance where complaints fall in to the categories above, West Limerick Independent Living will either proceed to investigate the complaint using the appropriate procedures as outlined in this document or will inform the complainant of the appropriate channels through which their complaint should be referred.

It is important to note that this Policy has been developed to complement all relevant policies, procedures and guidelines already developed by West Limerick Independent Living to date e.g. Dignity at and respect at work etc., and that matters appropriate for these other procedures will continue to be treated in the same manner and in accordance with these agreed procedures.

While this policy and supporting procedures only describe the process in relation to the management of complaints, West Limerick Independent Living is committed to appropriately managing any form of feedback, including compliments, and are developing systems to support such feedback.

### **Application**

All West Limerick Independent Living policies and procedures apply to any persons employed by the West Limerick Independent Living. This includes permanent staff, temporary workers and relief staff. This complaints policy and procedure is for use by service users, other agencies and members of the public. It is not for use by staff who have concerns or grievances; this is dealt with through the **Grievance Procedure** which is available to staff either through their line manager or on the Internet.

### **Responsibilities of all West Limerick Independent Living staff**

Staff are expected to respond in a courteous manner to anyone raising a concern or making a formal complaint. Each member of staff is expected to treat any concerns or complaints brought to them in an appropriate and confidential manner. If a staff member receives a complaint about a manager or colleague, the staff member should explain that they are not the appropriate person and refer the complaint to the Service Co-ordinator or other line manager. It is not acceptable for a member of staff to engage in debate or give a personal opinion about the action(s) of a colleague.

### **Advocacy**

All complainants have a right to appoint an advocate to assist them in making their complaint and to support them in any subsequent processes in the management of that complaint. A Staff member or a trusted person may also be advocates for service users wishing to make a complaint if it is possible to do so within the principles of advocacy as listed below:

- Empowerment of the person where possible
- Respect for the person and his/her wishes
- Acting in the person's best interest
- Acting independently
- Maintaining confidentiality
- Acting with diligence and competence

Staff members asked to perform this role must ensure that:

- they can advocate impartially and fairly.
- they have no previous involvement in the actions complained of, or in the examination/investigation of the complaint
- they receive training in the essential elements of advocacy support.
- they do not feel compelled to act as an advocate where they do not feel competent or supported to do so and must ensure that they direct the service user to appropriate advocacy supports.

### **Stages of the complaints management process**

Stage 1 Local resolution of verbal complaints at point of contact (Informal)

Stage 2 Local investigation of written and serious complaints (Formal)

Stage 3 Internal Review (The HSE)

Stage 4 Independent Review (Ombudsman)

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

A 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 is being investigated, the Complaints Officer 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 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 must update the complainant and the relevant staff/ service member every 20 working days.
- The Complaints Officer must endeavour to investigate complaints within 30 working days. However, where the 30 working days time frame cannot be met despite every best effort, complaints 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 complaints 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 bear with the West Limerick Independent Living complaints management process while informing them that they may seek a review of their complaint by the Ombudsman.

### **Verbal complaints**

Complaints or concerns are often brought to the attention of a member of staff at the point of service delivery. The issue should be clarified, remedial action taken and complaint resolved immediately, where appropriate. The complaint and action taken should be recorded and forwarded to the West Limerick Independent Living. If the complaint is deemed to have been dealt with appropriately by the staff member and their manager no further action is required.

If it is not possible to resolve the issue immediately, the complaint will be forwarded in writing to the Manager for attention. The Manager will acknowledge receipt of the complaint in writing within 5 working days and initiate an investigation. The issue will be clarified with the complainant by an Investigative Officer who will conduct an investigation. He / She will come to a conclusion which will be communicated to the complainant.

### **Written complaints**

Where any member of staff receives a written complaint they should in the first instance bring this to the attention of the Manager. The complaint will be acknowledged within 5 working days of receipt. The Manager will clarify the nature of the complaint if necessary and initiate an investigation. He/She will appoint an Investigation Officer or if the matter requires it conduct the investigation into the complaint personally.

The Investigation Officer will:

- Conduct a detailed investigation into all aspects of the complaint
- Where changes to policies and procedures are required; ensure that these changes are made and that other managers are aware of them
- Inform the complainant of the outcome

Where a complaint spans more than one area of management, the Investigation Officer will consult with appropriate colleagues in order to prepare a consolidated response. The outcome will be reported to the West Limerick Independent Living.

### **Investigating a complaint**

Any investigation will respect the privacy and confidentiality of all concerned. All investigations will be approached fairly and objectively. Whatever the outcome of the investigation, all evidence will be fully documented. The Investigating Officer shall, where appropriate, make personal contact with the complainant to clarify and detail the complaint.

The Investigating Officer will arrange to meet with appropriate staff to explore the issues raised by the complaint. If the complaint involves specific members of staff, the Investigating Officer will contact the staff involved and explain that a complaint has been made and that they need to meet to discuss the issues. At the meeting, the Investigating Officer will outline the complaint and ask the member of staff to respond.

The member of staff may need time to refer to notes or other records. In this, case a subsequent meeting may need to be arranged. The content of all meetings will be contemporaneously recorded by the Investigation Officer and this will be checked back with the member of staff to ensure its accuracy.

If the nature of the complaint appears to be of a serious nature which, if substantiated, could lead to disciplinary action, the Disciplinary Policy and Procedures will be followed. After collating and reviewing all the available information, the Investigating Officer will consider:

- If all or part of the complaint is upheld
- If a change in practice or procedure is required
- If any staff training or development is indicated
- If any disciplinary action is indicated.

### **Following an Investigation**

Depending on the outcome of the investigation, the Manager will determine the appropriate action to be taken. Following the investigation, the Manager will formally contact the complainant in writing with the outcome and the action taken. The final response will address all aspects of the complaint and will be signed by the Manager. Details of the appeal process will be included.

### **Possible outcomes of an Investigation**

#### 1. Complaint not upheld

The investigation may find that the complaint cannot be upheld, no further action indicated other than a report back to the complainant.

#### 2. Complaint not upheld – but further action indicated

The investigation may find that the specific complaint cannot be upheld but other concerns were identified during the course of the investigation such as a misunderstanding or poor communication that contributed to the complaint being made.

#### 3. Complaint Upheld

The investigation may find that the complaint was justified. The Manager will then identify what action will be taken such as staff training or change of practice

#### 4. Complaint Upheld and Disciplinary Action Indicated

The investigation may find that the complaint was justified. Information may come to light indicating a breach of West Limerick Independent Living rules. In this case action will be taken in line with West Limerick Independent Living Disciplinary Policy and Procedures.

**Review Process (For complaints that come under Part 9 of the Health Act 2004)**

Where complaints are made in relation to matters which fall under the scope of the Health Act 2004 i.e. complaints relating to activities or services which are funded by the HSE in whole or in part, access to a Review Process by the HSE will be provided. A Review Process for complaints is one which gives the complainant an opportunity to have the recommendations made after the investigation of their complaint reviewed.

All requests for reviews should be addressed to:

Mary Culliton  
Head of Consumer Affairs  
Health Service Executive  
Oak House  
Millennium Park  
Naas  
Co. Kildare

**Review Process (For complaints that do not come under Part 9 of the Health Act 2004)**

If the complainant is not satisfied with the response to a complaint he / she may contact the Manager to discuss the matter further. If a complainant remains dissatisfied, an appeal can be lodged in writing. All correspondence and information related to the investigation will be forwarded to the Board of Management, who will establish an appeal panel to review the complaint and investigation.

The complainant may be contacted to discuss the matter further. The Board of Management will reach a conclusion and decide on an appropriate course of action. The Board of Management will communicate the appeal conclusion to the complainant within 20 working days of receipt of the written appeal.

If at the end of the appeals process the complainant is still dissatisfied, West Limerick Independent will inform the complainant of the contact details of the Office of the Ombudsman. The outcome of the complaints process will be communicated to all relevant individuals while adhering to the principle of confidentiality insofar as is practicable.

**Independent Review – Ombudsman**

This office came into existence following the Ombudsman Act 1980. As provided for in the Health Act 2004, following the exhaustion of all West Limerick Independent Living complaint processes of investigation and review, the complainant may register a further complaint with the Ombudsman. This right will be recorded on the complaint conclusion letter to complainants.

“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.”

<p><b>Office of the Ombudsman</b> 18 Lr. Leeson Street, Dublin 2. Tel: +353-1-639 5600 Lo-call: 1890 223030 Fax: (01) 639 5674</p>	<p><b>Ombudsman for Children’s Office</b> Millennium House 52-56 Great Strand Street Dublin 1 Tel: 01-8656800</p>
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### **Redress**

An effective complaints system which offers a range of timely and appropriate remedies will enhance the quality of service to the consumers of West Limerick Independent Living's services. It will have a positive effect on staff morale and improve West Limerick Independent Living's relations with the public. It will also provide useful feedback to West Limerick Independent Living 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. West Limerick Independent Living 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
- Refund
- Admission of fault
- Change of decision
- Replacement
- Repair /rework
- Correction of misleading or incorrect records
- Technical or financial assistance
- Recommendation to make a change to a relevant policy or law
- 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 HSE to make a material amendment to its approved service plan, or
- b. a service provider and the HSE to make a material amendment to an arrangement under section 38.

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.

### **Anonymous complaints**

West Limerick Independent Living will not investigate anonymous complaints against any member of staff. To register a complaint, you must provide personal contact details. Anonymous complaints against members of staff will not be entertained due to the possibility that they may be vexatious or malicious in nature. Anonymity of complainant does not enable the principles of natural justice to be upheld. All verbal and written anonymous complaints regarding services or events should be brought to the attention of the relevant manager for a decision as to whether further action is needed.

### **Complaints made in confidence**

West Limerick Independent Living can facilitate complaints to be made in confidence where specifically requested by the complainant. In these instances, the identity of the complainant will only be known to the recipient of the complaint, the Investigating Officer and the Manager. If the investigation requires the identification of the complainant to be known, consent should be obtained. If consent is not obtained the investigation cannot proceed. However, the Investigating Officer must be satisfied that the nature of the complaint does not represent a risk to West Limerick Independent Living members or staff.

### **Vexatious or malicious complaints**

If a complaint is deemed to be malicious the investigation, will cease. The complainant will have the option of registering a further complaint with the Office of the Ombudsman. The Manager will review vexatious or malicious complaints to determine if any action should / can be taken by West Limerick Independent Living.

### **Receipt and acknowledgment of complaints**

The staff member receiving the complaint or their Service Co-ordinator / manager will acknowledge receipt of the complaint in writing within 5 working days and give a target date for the response. The target date for a response to a complaint is 30 working days. A complaint file will be generated and an investigation initiated. If the original timescale cannot be met, the Manager must be informed and a holding letter sent to the complainant explaining the delay.

### **Documentation**

The West Limerick Independent Living complaints procedure will be recorded on standard documentation including;

- Acknowledgment letter
- Request for meeting letter
- Request for information letter
- Complaint conclusion letter

### **Complaints Records**

All records of complaints must be kept. To ensure that West Limerick Independent Living utilises complaints as a learning opportunity, all verbal and written complaints will be recorded, maintaining the highest level of confidentiality. West Limerick Independent Living will review complaints received to identify trends and support appropriate service development as identified. The handling of each complaint should be reviewed to test the appropriateness and practical application of the complaints procedure. West Limerick Independent Living will;

- Implement this policy
- Establish categories of complaints
- Identify common themes
- Identify trends of complaints received
- Establish a ratio of verbal to written complaints
- Prepare a quarterly report on complaints received which will be provided to the Company Board

### **Annual report to the HSE**

West Limerick Independent Living has established a complaints procedure by agreement with the HSE and acknowledges that it must provide the HSE with a general report on the complaints where those complaints are made in relation to matters which fall under the scope of the Health Act 2004 i.e. complaints relating to activities or services which are funded by the HSE in whole or in part. The report will specify all relevant complaints received by the service provider during the previous year indicating:

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

As well as providing an Annual report it is envisaged that the Health Service Executive will collect statistics / details of complaints on a half yearly basis.

It is also requested that where a serious complaint is made that the Local Health Manager will be made aware of same.

### **Summary**

The West Limerick Independent Living complaints policy is designed to be as responsive as possible to complainants. The policy operates to the highest standards of natural justice and fairness. The investigation of complaints, made either verbally or in writing by individuals or advocates appointed on their behalf provides the West Limerick Independent Living with an opportunity to learn and improve the services we provide. This policy will be reviewed on an annual basis to ensure it operates to the highest possible standards.

### **Appendix 1 – Contact Details**

Gerard O Connor -      Manager, West Limerick Independent Living

Telephone –               (069) 77320

Email –                     [info@limerickcil.com](mailto:info@limerickcil.com)

Chairperson – Board of Directors

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|------------------------|--------------------------------|
| 1. Ms. Ann Shine       | Director                       |
| 2. Ms. David Noonan    | Director                       |
| 3. Mr. Timothy Corbett | Director                       |
| 4. Mr. Kevin Flynn     | Chairman                       |
| 5. Ms. Leigh Gath      | Director and Company Secretary |
| 6. John Creedon        | Director                       |
| 7. Donal Cooper        | Director                       |