

Title: Complaints Policy and Procedures	Author: Sheila Breen, Quality and Patient Safety Manager	Doc No: PPGS-QPSD-004
Authorised By: Prof Fergal Malone, Ms Margaret Philbin, Ms Pauline Treanor	Revision No. 2	Date of Issue: 22 nd April 2016
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1.0 Policy

This policy relates to complaints made by consumers to the Rotunda Hospital in relation to services provided or omitted by the Rotunda Hospital.

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 matters that:

- Are or have been the subject of legal proceedings before a court or tribunal;
- Relate solely to the exercise of clinical judgement;
- Relate to action taken by the Hospital solely on the advice of a person exercising clinical judgement;
- Relate to the recruitment or appointment of an employee;
- Relate to or affect the terms or conditions of a contract of employment that the Hospital proposes to enter into;
- Relate to the Social Welfare Act;
- Could be the subject of an appeal under Section 60 of the Civil Registration Act 2004;
- Could prejudice an investigation being undertaken by the Garda Síochána;
- Has been brought before any other complaints procedure established under an enactment.

In cases where complaints fall into the categories outlined above, the Hospital will either proceed to investigate the complaint using the appropriate procedures or will inform the complainant of the appropriate channels through which their complaint should be referred.

Where a complaint relates only in part to an excluded matter, the Quality and Patient Safety Manager will assess and investigate the non-excluded matter of the complaint and inform the complainant accordingly.

The Hospital is committed to open disclosure with service users and it is policy that complaint issues are identified, managed, disclosed and reported and that learning is derived from them. The service user must be informed in a timely manner of the facts relating to the complaint issues and an apology provided, where appropriate.

2.0 Definitions

Clinical Judgement – a decision made or opinion formed in connection with the diagnosis, care or treatment of a patient.

Close Relative – a person who:

- is a parent, guardian, son, daughter or spouse of the other person, or
- is cohabiting with the other person

Complaint – (definition as per the Health Act 2004) means a complaint made under the 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.

Malicious – spiteful, intentionally destructive, hateful, nasty, cruel.

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Open Disclosure – an open, consistent approach to communicating with service users when things go wrong in healthcare. This includes expressing regret for what has happened, keeping the service user informed, providing feedback on investigations and the steps taken to prevent a recurrence of the complaint issues.

Review Process – gives the complainant an opportunity to have the recommendations made after the investigation of their complaint reviewed by a HSE Review Officer or by the Ombudsman or Ombudsman for Children.

Vexatious – troublesome, disagreeable, upsetting, worrisome.

3.0 Purpose

The purpose of this policy is to clearly outline the Hospital's procedures for receiving, handling, investigating, recording and reporting on complaints.

3.1 Who can make a complaint

A person can make a complaint on his/her own behalf or on behalf of another person:

- (a) A close relative or carer of the person
- (b) Any person, who by law or by appointment of a court has the care of the affairs of that person
- (c) Any legal representative of the person
- (d) Any other person with the consent of the person, or
- (e) Any other person who is appointed as prescribed in the regulations

All complainants have the right to appoint an advocate. If a person is unable to make a complaint themselves the advocate can assist them in making the complaint.

3.2 How a complaint can be made

A complaint can be made verbally, in writing, via email or by completing the complaint form. The complaint forms are available in all the clinical areas or from the main reception desk in the hospital.

The complaint form is also accessible, along with the policy on the website: <https://www.rotunda.ie/en-gb/aboutus/feedback.aspx>

For further information, please contact:

Complaints Section,
Quality and Patient Safety Department,
The Rotunda Hospital,
Parnell Square,
Dublin 1.

Telephone: 01 – 817 1751

Email: comments@rotunda.ie

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4.0 Responsibility

4.1 All Staff

All Rotunda employees have an obligation to effectively deal with complaints made to them. This involves listening to the complaint and resolving it at source if possible. If local immediate resolution is not possible the complaint should be forwarded to the Quality and Patient Safety Manager.

Staff must assist with any review or investigation into a complaint.

4.2 Role of Department Managers

Take responsibility for, and have an understanding of, effective complaints management and to effectively communicate these processes to their staff.

Ensure staff receive training, education and support in the complaints handling processes.

Co-operate with and take a pro-active approach in the local resolution, reporting and investigation of complaints that involve their service.

Provide evidence that lessons have been learned and improvements have been made to their service as results of complaints.

4.3 Quality and Patient Safety Manager

Has overall responsibility to ensure the complaints management processes in the Hospital are conducted in line with agreed policy.

When complaints are referred to the Quality and Patient Safety Manager:

- Communicate with the complainant and inform them of the timeframe for reviewing the complaint, any reasons for delay in responding and make them aware of the Appeals process.
- Liaise with the staff involved in the review and investigation of the complaint.
- Co-ordinate education and training for staff in complaints handling.
- Provide reports both within the Hospital and to the HSE on the management of complaints received.

4.4 Executive Management Team

Ensure the Hospital is compliant with Part 9 of the Health Act 2004.

Ensure the managers and staff are aware of and comply with the complaints policy and procedures.

Ensure there is effective monitoring and evaluation of the complaints systems.

Ensure that organisational improvements are implemented in response to complaints received as far as is reasonably practicable.

5.0 Procedure

The process for the management of complaints consists of the following distinct stages:

1. Management of a Verbal Complaint at the Point of Contact

Many complaints can be resolved at the point of contact with information and/or explanation, together with an apology and recognition of the effect the situation had on the person.

All Rotunda staff can receive a verbal complaint about any aspect of the service. A practical approach must be adopted to verbal complaints which are usually more frequent, of a less serious nature than written complaints and are often resolvable on the spot.

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Local resolution is to be encouraged and supported by raising awareness amongst staff that each individual is accountable to the service user and has a responsibility to respond to concerns that are raised and where possible, provide an apology and/or explanation.

The recipient of the complaint should:

- Be respectful and helpful towards the complainant
- Give the complainant his/her individual attention
- Not attempt to lay blame, be defensive or argue
- Remain positive
- Not take anger as a personal attack

Use the **LISTEN** approach when receiving a verbal complaint:

Listen to the complainant

Identify the issues (be aware of multiple issues) and what outcome the complainant would wish to result from their complaint

Summarise the issues

Thank the complainant

Empathise and explain what will happen next

Now act – determine the appropriate action

Every effort should be made to resolve a verbal complaint immediately or within 24 hours of receiving the complaint if it is deemed appropriate for local resolution at the first point of contact.

Where complaints cannot be resolved at the first point of contact they may proceed to an informal resolution with a more senior member of staff, for example a Department Head or the Assistant Director of Midwifery/Nursing. If it remains unresolved or due to its seriousness or complexity, the complaint should be referred to the Quality and Patient Safety Manager for investigation.

Best practice complaints management indicates that verbal complaints should be recorded, especially if they indicate that a particular trend is emerging.

2. Managing a Written Complaint

Written complaints may originate from two sources:

1. Where a verbal complaint cannot or should not be resolved at the point of contact; or
2. The first contact from the complainant is in the form of a written complaint.

The Quality and Patient Safety Manager has two options:

1. Before commencing a formal investigation, to consider whether it would be practicable to seek the consent of the complainant and any other person to whom the complaint relates to finding a resolution through informal means.
2. To commence a formal investigation of the complaint.

Any written complaints received by a staff member must be brought immediately to the attention of the Quality and Patient Safety Manager.

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An **acknowledgement letter** must be sent within 5 working days of receipt of the complaint. This letter should include:

- Acknowledgement of the date the complaint was written and the date it was received.
- Appreciation of consumer feedback as a means of improving systems and service delivery.
- Expression of regret for any inconvenience or difficulties that the complainant experienced.
- Information on the timeframe for reviewing the complaint.
- Contact details so that the complainant can make contact to discuss any of the matters above.

Timeframes for Investigation of the Complaint

- Acknowledgement letter sent within 5 working days of receipt of the complaint.
- Must endeavour to investigate and conclude the complaint within 30 working days of it being acknowledged.
- If the investigation cannot be concluded within 30 working days, the Quality and Patient Safety Manager must communicate this to the complainant within the 30 days and give an indication of the time it will take to complete the investigation. The complainant must receive an update on the proposed new timeframe every 20 working days.
- If the investigation cannot be completed within 6 months, an explanation must be given to the complainant. They should be informed that they may seek a review of their complaint by the Ombudsman.

Timeframe for obtaining further Information from the Complainant

- If the need for further information from the complainant is identified, the Quality and Patient Safety Manager must contact the complainant immediately, outlining the information required and requesting a response within 10 working days of receipt of the request.
- The time limit for receipt of the information may be extended by a further 10 working days.
- The complainant must be informed that if they fail to provide the further information required, we may decide to invalidate the complaint.

Timeframe for Eliciting Responses from Staff Members

- Complaints are forwarded to the relevant member of the Executive Management Team with responsibility for the service(s)/area(s) identified in the complaint.
- Where a response is required from staff members in relation to issues raised, the Quality and Patient Safety Manager may inform the relevant Head of Department, who is then responsible for ensuring the staff member provides a response to the issues raised.
- The relevant staff member(s) is required to respond within 10 working days of receiving notice of the complaint.
- Complex complaints may require responses from a number of individuals or departments. These will be collated so that as far as possible one overall response will be provided to the complainant.

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Timeframe from Eliciting Responses from Former Employees

- The Quality and Patient Safety Manager must endeavour to contact the relevant ex-staff member immediately, to inform them of the complaint and to invite a response to the issues raised within the timeframes outlined above.
- If timeframes cannot be met due to the unavailability of the ex-staff member, the complainant must be informed and assured that the complaint is being progressed as quickly as possible.
- If unable to obtain a response, we must endeavour to investigate the complaint to the best of our ability with the information available.

Time Limits for Making a Complaint

Part 9 of the Health Act 2004 outlines that the complaint must be made within 12 months of the:

- Date of the action giving rise to the complaint; or
- Complainant becoming aware of the action giving rise to the complaint

The time limit may be extended if it is deemed appropriate to do so. The complainant must be informed within 5 working days of the decision to extend the time limit or not.

a. Informal Resolution of a Written Complaint

- The most appropriate informal resolution approach must be determined e.g. discussion or arranging a meeting between the parties concerned.
- A report outlining the details of the complaint, the resolution process and the outcome including any recommendations made must be collated. This information is recorded in a separate record and no information regarding a complaint should be retained in the healthcare record.
- The person responsible for implementing any recommendations or actions arising out of the complaint must be identified along with the proposed timeframe for implementation.
- If the complaint remains unresolved; the complainant must be given information on the process for the formal investigation of the complaint.
- Mediation may be considered on a case by case basis as a means of achieving resolution where both parties agree to the process.

b. Formal Investigation of a Written Complaint

Where a formal investigation is required, the Quality and Patient Safety Manager will initiate the investigation of the complaint. She may request any documents and communicate with any persons she believes can assist with the investigation of the complaint.

Relevant Managers must actively assist in the investigation of the complaint and in the implementation of any improvements recommended for the service as a result of the investigation findings.

If necessary, an investigation team can be established, consisting of all relevant persons and staff with expertise and knowledge to carry out the investigation. Terms of reference would be identified and agreed by all persons involved. The terms of reference determine the objectives of the investigation team and the limits of its responsibility and authority.

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All information obtained in the course of investigating a complaint will be deemed to be confidential information and it may not be discussed, communicated or disclosed, except where necessary for the proper investigation of the complaint.

Formal Investigation Process

- All parties involved in the complaint will be identified and informed of the decision to carry out a formal investigation.
- Gather all relevant evidence to support the investigation process.
- Both the complainant and the staff involved will be given an opportunity to give their version of events and to provide evidence/explanations in relation to their actions.
- All parties must be informed of their right to be accompanied by a support person/trade union representative etc at any meetings.
- The complainant is given the opportunity to identify what they would like to happen as a result of making the complaint. It must be made clear what can and cannot be achieved through the investigation.
- The investigation is to determine the sequence of events leading to the complaint and the root causes of the complaint.
- Where the investigation highlights employee related issues, these will be referred to the relevant Head of Department and to HR for appropriate follow-up.
- If an adverse finding is made against a person, they must be afforded time to review and respond to the issue before it is included in the report.
- Any recommendations to be made as a result of the findings of the investigation will be submitted to the Executive Management Team for review and approval.
- A post investigation report will be completed, signed and dated. This should include the findings, any recommendations made and the reasons for the findings and recommendations.
- Investigators must be cognisant of confidentiality requirements for both the complainants and the staff members involved. Parts of the report may need to be anonymised to protect the identity of those involved.

3. HSE Review

Where a complainant is dissatisfied with the outcome of the complaint review undertaken under Part 9 of the Health Act 2004 or the recommendations made by the Hospital, they may apply for a review to the Head of Consumer Affairs in the HSE, within 30 working days of the date on which the report was signed and dated.

The Head of Consumer Affairs may extend the time limit for requesting a review if they determine that special circumstances make it appropriate to do so. The complainant will be informed of the decision in writing within 5 working days of the decision being made and of the Review Officer appointed, as applicable.

The functions of the Review Officer are twofold:

- 1.0 To determine the appropriateness of a recommendation made, having regard to two elements:
- 2.0 Having determined the appropriateness of the recommendation to uphold it, vary it, or make a new recommendation if they consider it appropriate to do so.

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The Review Officer may request all documentation relevant to the complaint and communicate with any person they reasonably believe can assist with the review of the complaint.

The Review Officer must endeavour to conduct and conclude the review within 20 working days of the request being received. If this is not achievable, the complainant must be informed of the proposed revised timeframe.

A signed and dated report on the review will be compiled. Findings adverse to a person will not be included in the report without first having afforded the person concerned the opportunity to consider the finding or criticism and to make representation in relation to it.

A copy of the report will be forwarded to the complainant, the Quality and Patient Safety Manager who investigated the complaint and to the Head of Consumer Affairs.

4. **Ombudsman Review**

Complainants must always be made aware of their right to an independent review of their complaint by the Ombudsman. The Ombudsman may decide not to investigate a complaint if sufficient steps were not taken by the complainant to try to seek local investigation and redress from the Hospital.

The Ombudsman cannot investigate:

- Actions taken in connection with clinical judgement.
- Complaints relating to recruitment, pay and conditions of employment.
- Court decisions, matters which are already the subject of court proceedings.

The Ombudsman can investigate complaints about a private practitioner who was providing a service on behalf of the Hospital or HSE.

Information on the review process is available on the website www.ombudsman.ie

The Ombudsman for Children is the independent review process for complaints made by or on behalf of children up to and including the age of 18.

6.0 **Complaints that do not come under the Provision of Part 9 of the Health Act 2004**

The processes for dealing with these complaints are as follows:

6.1 **Complaints in Relation to Clinical Judgement**

A complaint must be assessed to determine if the complaint or parts of the complaint may be clearly defined as clinical judgement.

Where a complaint is not **solely** related to clinical judgement a local investigation of the complaint is to be carried out to identify the root causes of the complaint and to identify those aspects of the complaint that do not relate to clinical judgement.

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Where a complaint concerns clinical judgement, it must be referred to the Master. The Master will immediately inform the relevant clinical lead (medical or otherwise) and they shall look into the clinical aspects. In conjunction with the Master they will try to resolve the complaint and if necessary meet with the patient and family members to discuss the matter.

Clinicians will be provided with the opportunity to be part of an investigation that will endeavour to resolve the complaint as close to the point of contact as possible.

Where the investigation highlights employee related issues, these will be referred to the relevant Head of Department and to HR for appropriate follow-up.

6.2 Anonymous Complaints

- Both written and verbal anonymous complaints should be recorded and reported to the relevant manager for a decision as to whether quality improvements are required on the basis of the complaint.
- Anonymous complaints will not normally be investigated as there is 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. However, assurance should be sought that the systems in place are robust and the welfare of patients/clients is not at risk.
- If a complaint is made in confidence, the identity of the complainant will only be known to the recipient of the complaint and the Quality and Patient Safety Manager. If the investigation of the complaint requires the identity of the complainant to be disclosed, the consent of the complainant must be obtained.

6.3 Vexatious or Malicious Complaints

- Complaints found to be frivolous or vexatious will not be investigated.
- This does not remove the complainant's right to submit the complaint to the Ombudsman.
- Before the complaint is deemed vexatious the Quality and Patient Safety Manager must bring it to the attention of the Master.

6.4 Alternative Complaints Processes

Where alternative complaints processes (other than Part 9 of the Health Act 2004) are appropriate, the Quality and Patient Safety Manager will either investigate the complaint using the alternative process or will refer the complainant directly to the appropriate health service personnel for management under the relevant policy, procedure or guideline.

The complainant should be informed of where the complaint is being referred to and why or alternatively, they should be informed of the relevant channels through which they should direct their complaint.

7.0 Audit, Evaluation and Reports

The key performance indicator is to identify the percentage and number of complaints dealt with within 30 working days. The target is to deal with 85% of complaints within 30 days.

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Monthly data on the total number of complaints will be collected and used as an activity measure. This information will be discussed at the monthly Quality and Safety Committee meetings. Reports are also produced and dissemination for discussion at other organisational meetings e.g. Clinical Managers and Infection Prevention and Control Committee meetings.

Quarterly reports are submitted to the Risk Committee of the Board of Governors.

Reports on complaints management are submitted to the Regional Consumer Affairs Officer in the HSE on a quarterly basis on the template provided.

The Hospital's annual Service Level Agreement with the HSE identifies the requirements relating to the provision of an annual report on complaints management. The report must contain the following information:

- Total number of complaints received
- Nature of the complaints
- Number of complaints resolved by informal means
- Outcome of any investigations into the complaints

8.0 References

Health Service Executive (2015) HSE Complaints Policy. Your Service Yours Say.

Health Service Executive and State Claims Agency (2013) Open Disclosure. National Guidelines – Communicating with Service Users and their Families following Adverse Events in Healthcare.