

Title: Complaints Policy and Procedures	Author: Sheila Breen, Head of Quality and Patient Safety	Doc No: PPGS-QPSD-004
Authorised By: Prof Fergal Malone, Ms Fiona Hanrahan, Mr Jim Hussey	Revision No. 3	Date of Issue: 27 <sup>th</sup> July 2021
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## 1.0 Policy

This policy relates to the handling of complaints made by service users to the Rotunda Hospital in relation to services provided or omitted by the Rotunda Hospital.

Effective handling of service user feedback is fundamental to the provision of a quality service. The Rotunda is committed to ensuring that complaints are acknowledged, reviewed, acted upon and responded to and that the learning derived from this feedback informs our quality improvement programmes.

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.

A complaint is excluded under Part 9 of the Health Act 2004 if it is in relation to any of the following matters:

- Is or has been the subject of legal proceedings before a court or tribunal,
- Solely to the exercise of clinical judgment,
- Action taken by the Hospital solely on the advice of a person exercising clinical judgment,
- Recruitment or appointment of an employee,
- Affecting the terms or conditions of a contract of employment that the Hospital proposes to enter into (includes terms or conditions relating to superannuation benefits, disciplinary procedures or grievance procedures),
- Social Welfare Acts,
- 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 (e.g. Complaints under Part 2 of the Disability Act, 2005 or the Mental Health Act, 2001).

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 Head of Quality and Patient Safety will assess and investigate the non-excluded matter of the complaint and inform the complainant accordingly. Elements of a complaint relating the clinical judgment require review and response by clinical staff, as agreed by the Master or Director of Midwifery/Nursing.

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## 2.0 Definitions

**Clinical Judgment** – 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) complaint made about any action of the Service Provider that, it is claimed does not accord with fair or sound administration practice, and adversely affects the person by whom, or on whose behalf, the complaint is made.

**Open Disclosure** – an open, consistent, compassionate and timely approach to communicating with patients and, where appropriate, their relevant person following patient safety incidents. This includes expressing regret for what has happened, keeping the patient informed and providing reassurance in relation to on-going care and treatment, learning and the steps being taken by the health services provider to try to prevent a recurrence of the incident (HSE, 2019).

**Personal Data** – data relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information that is in, or likely to come into the possession of the data controller.

**Review Process** – gives the complainant an opportunity to have the recommendations made after the investigation of their complaint reviewed by a HSE Review Officer and/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) public representative
- (e) any other person with the consent of the person, or
- (f) any other person who is appointed as prescribed in the regulations

If the complaint is made on behalf of another person, the Hospital may request additional information to support same (i.e. written consent and/or copy state issued identification).

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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. The Patient Advocacy Service provides free, independent and confidential information, support and empowerment to users of HSE funded public acute hospitals making a complaint about their care. Further information is available by calling 0818 293003 or online at [www.patientadvocacyservice.ie](http://www.patientadvocacyservice.ie)

### 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, on the website: <https://rotunda.ie/feedback-and-complaints/>

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](mailto:comments@rotunda.ie)

## 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 complainant and resolving the matter at source, if possible. If local immediate resolution is not possible the staff member should bring the matter to the attention of their Department 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 process.

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 made to their service as a result of complaints.

### 4.3 Head of Quality and Patient Safety

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

- 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 multidisciplinary team meetings with the complainant as required.
- Facilitate education and training for staff in complaints handling.
- Provide reports both within the Hospital and to the HSE on the management of complaints received.

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#### 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 system.  
 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 Complaint at the Point of Contact (Stage 1)**

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 complaint about any aspect of the service. A practical approach must be adopted to point of contact complaints which are usually more frequent, of a less serious nature and are often suitable for prompt management and to the service users' satisfaction at the point of contact.

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 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:

- L**isten to the complainant
- I**dentify the issues (be aware of multiple issues) and what outcome the complainant would wish to result from their complaint
- S**ummarise the issues
- T**hank the complainant
- E**mpathise and explain what will happen next
- N**ow act – determine the appropriate action

Every effort should be made to resolve a complaint at the point of contact immediately or within 48 hours of receiving the complaint if it is deemed appropriate for local resolution.

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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 Head of Quality and Patient Safety 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 Formal Complaint (Stage 2)**

Unresolved complaints at Stage 1 may need to be referred to the Head of Quality and Patient Safety. More serious or complex matters may need to be addressed immediately under Stage 2. There may be a need for investigation and action(s) as appropriate.

### **Timeframes for Stage 2 Complaints**

An **acknowledgement letter** must be sent within 5 working days of receipt of the complaint. It must include information on the timeframe for reviewing the complaint, contact details if they wish to discuss any aspects of the process and their appeal rights.

We must endeavour to complete the **investigation** into the complaint within 30 working days of it being acknowledged. If this timeframe cannot be met, the complainant must be informed of the delay and advised of the likely revised timeframe to completion. The complainant must be updated every 20 working days until completion of the investigation.

### **Timeframe for Obtaining Further Information from the Complainant**

If further information is required from the complainant, they must be contacted immediately, informed and requested to provide the information within 10 working days of receipt of the request. Failure to provide the information may invalidate the complaint.

### **Timeframe for Eliciting Responses from Staff Members**

- 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.

### **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.

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### **Response to the Complaint**

Depending on the nature and complexity of the complaint, the response may be in the form of a letter/report, a telephone conversation or a face-to-face meeting.

If a multidisciplinary team meeting with the complainant is required, this will be co-ordinated by the Head of Quality and Patient Safety and notes of the meeting will be taken by an Administrator attached to the Secretary/General Manager's Office.

Documentation in relation to the review of the complaint should include:

- the investigation process undertaken
- the nature of any discussion
- the resolution process and
- the outcome including any recommendations made
- the appeals process

This information is recorded in a separate complaint file/record by the Head of Quality and Patient Safety 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 by the person responding to the complaint, along with the proposed timeframe for implementation.

Mediation may be considered on a case by case basis as a means of achieving resolution where both parties agree to the process.

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.

### **3. HSE Review (Stage 3)**

Where a complainant is dissatisfied with the recommendation(s) made by the Hospital, they may apply for a review of that recommendation to the CEO of the RCSI Hospital Group, within 30 working days of the date on which the report was signed and dated.

The functions of the Review Officer are:

- 1.0 To determine the appropriateness of a recommendation made having regard to all aspects of the complaint and its investigation.
- 2.0 To consider any written representation made by the complainant made in support of their complaint.
- 3.0 Prepare a report on the review. The original recommendations may be upheld or varied or new recommendations may be made.

Please see the national policy for further information on the review process.

### **4. Independent Review (Stage 4)**

A complainant must be advised that they may choose to refer their complaint for independent review (e.g. Ombudsman or Ombudsman for Children) either directly following Stage 2 or following a Stage 3 complaint review if they are dissatisfied with a recommendation made or steps taken in response to the complaint or review.

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## 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 Judgment

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

The person making a clinical decision or forming an opinion in connection with the diagnosis, care or treatment of a patient must be suitably qualified and registered with a Professional Body.

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/or to the Human Resources Department for appropriate follow-up.

### 6.2 Anonymous Complaints

It is the Rotunda Hospital's policy that complainants must provide contact details when making a complaint against the Hospital to enable appropriate validation, follow up and investigation of that complaint unless there is a good and sufficient reason for withholding this information.

It is policy to review the complaint within the limitations of the information provided to assure that the welfare of patients/service users is not at risk and that action is taken, as appropriate.

### 6.3 Vexatious or Malicious Complaints

Complaints found to be vexatious or malicious 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 Head of Quality and Patient Safety Manager must bring it to the attention of a member of the Executive Management Team.

### 6.4 Alternative Complaints Processes

Where alternative complaints processes (other than Part 9 of the Health Act 2004) are appropriate, the Head of Quality and Patient Safety 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.

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## 7.0 Audit, Evaluation and Reports

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

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

Monthly updates are also submitted to the General Purposes Committee of the Board of Governors and to the RCSI Hospital Group. Complaints data is also submitted to the National Complaints Governance and Learning Team, as required on the agreed template for voluntary hospitals.

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 (2017)

HSE Complaints Policy. Your Service Yours Say. The Management of Service User Feedback for Comments, Compliments and Complaints.

YSYS Feedback Policy Guidance Manual.

<https://www.hse.ie/eng/about/qavd/complaints/ysysguidance/>

Health Service Executive (2019) Open Disclosure Policy. Communicating with Patients following Patient Safety Incidents.

<https://www.hse.ie/eng/about/who/qid/other-quality-improvement-programmes/opendisclosure/hse-open-disclosure-full-policy-2019.pdf>