



Policy / Procedure Details	Title:	Procedure for the Resolution of Concerns and Complaints to Western Care Association		
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Disclaimer:

Each situation must be judged on its own merits and it is unreasonable for readers to follow instruction in the policy without proper assessment of individual circumstances. The information contained within the policy is accurate and up to date, at date of approval.

Policy and Procedure Feedback Form

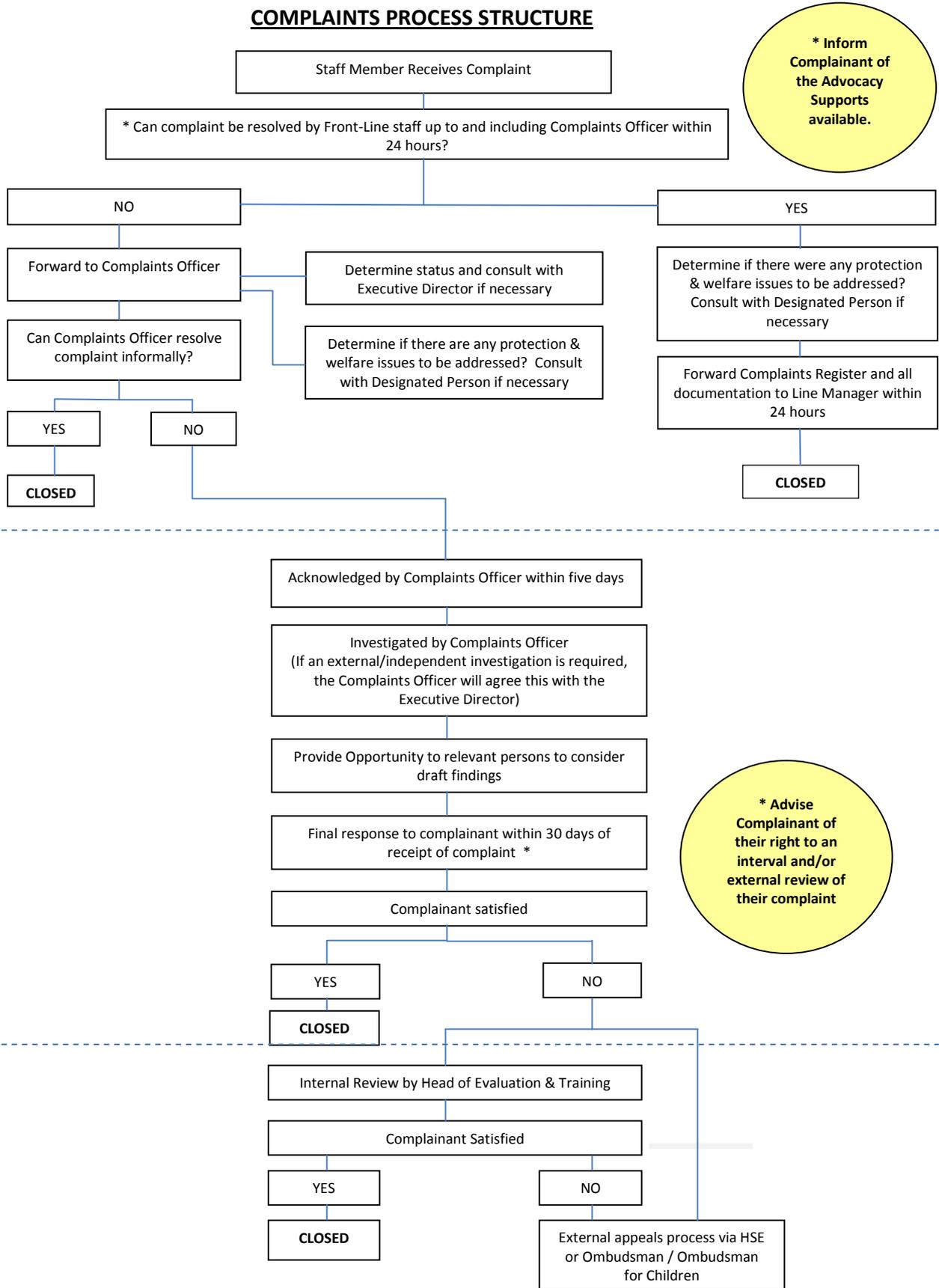
A Policy and Procedure Feedback Form is available on the Western Care Association Intranet (under Procedures) which will provide an opportunity to comment on any policy/procedure.

Your comments will be forwarded to the person who has the lead for the on-going development of the policy/procedure.

All comments will be collated by the person responsible and will inform the three-yearly review cycle for updating procedures.

COMPLAINTS PROCESS STRUCTURE

At any stage of the complaint management process the complainant can seek an independent review from the Ombudsman



* Inform Complainant of the Advocacy Supports available.

* Advise Complainant of their right to an interval and/or external review of their complaint

INFORMAL RESOLUTION

FORMAL RESOLUTION

APPEALS

1. Purpose of Policy

Western Care Association is committed to providing a quality service for service user's and their families. Complaints are regarded as an important source of information for improving services. The complaints policy enables matters of concern to be brought to the attention of the organisation and enables an investigation of these concerns with the aim of finding a satisfactory resolution and overall improvement of services.

Additionally the policy is developed to ensure that Western Care Association meets the requirements of:

- Health Act 2004 (Complaints) Regulations 2006.
- Health Service Executive (HSE) best practice as outlined in "Your Service Your Say"
- The National Service Plan, The Management of Consumer Feedback (available on www.hse.ie).
- Service Level Agreement with the HSE in compliance with Part 9 of the Health Act 2004; regulations made thereunder (including without limitation the Health Act 2004 (Complaints) Regulations 2006 (S.I. 652 of 2006).
- National Quality Standards for Residential Services for Children and Adults with Disabilities (Health Information & Quality Standards (HIQA) January 2013).
- Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013
- Disability Act (2005) which outlines specific processes for dealing with complaints and is outlined in HSE "Your Service Your Say".
<http://www.hse.ie/eng/services/yourhealthservice/feedback/Complaint>.

The policy is designed to provide a quality and consistent response to complaints and to ensure there is a concerted effort by all staff within Western Care Association to endeavour to resolve complaints as close to the point of contact as possible.

The policy provides guidance and outlines for all staff the procedures to be utilised for receiving, handling, investigating, recording and reporting of all complaints both verbal and written received within the Service from service users/family members.

This policy is **not** an appropriate mechanism for dealing with certain complaints such as allegations of physical or sexual abuse. Please refer to Western Care Associations' Adult Safeguarding Policy (WCA 2A.2), Western Care Association Child Protection Policy (WCA 2A.1), Children's First National Guidance for the Protection and Welfare of Children and the National Policy on Safeguarding Vulnerable Persons at Risk of Abuse in relation to these types of concerns.

2. Scope

The policy is applicable to all complaints received from the service user/family perspective within Western Care Association. An accessible version of this procedure is available to assist service users who may wish to make a complaint and to assist staff to ensure that Service Users as far as possible understand the process. Western Care Association also has a leaflet for families that sets out how to make a complaint.

This policy should be read in conjunction with Western Care Association's Procedure on Listening and Responding to People (WCA 1.9), the Western Care Association Adult Safeguarding Policy (WCA 2A.2), Western Care Association Child Protection Policy (WCA 2A.1), Children's First National Guidance for the Protection and Welfare of Children and The National Policy on Safeguarding Vulnerable Persons at Risk of Abuse.

In their day to day contact with people and families using service, staff will be seeking and receiving ongoing feedback about individuals and their preferences. In the main, this information does not constitute a complaint. Staff use a variety of systems to note information and to follow up on requests as appropriate. It is very likely that in the main, day to day feedback and requests are responded to without recourse to the complaints policy. However, at any point, staff can advise service users and families to use the complaints process if the feedback indicates dissatisfaction.

All complaints will be screened to ensure that any aspect of a complaint that raises concerns for the protection and welfare of children or vulnerable adults is identified and addressed appropriately.

3. Definitions

Complaint

A "complaint" is an expression of dissatisfaction, which needs a response. The Health Act 2004 Part 9, Section 45 identifies that a complaint "*is about any action of the Executive (HSE) 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".*

Informal Complaint

An informal complaint is generally a complaint that can be resolved by those directly involved, i.e. the frontline staff, frontline manager, regional manager or head of department without requiring a formal investigation.

Formal Complaint

A formal complaint is a complaint that requires a formal investigation in order to proceed to a resolution.

Complainant

Means any person who is or was provided with a health or personal social service by Western Care Association or who is seeking or has sought provision of such service may complain, in accordance with the procedures established under Section 46 of the Health Act 2004 about any action of the Service 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.*

Complaints Officer

Within Western Care Association, the Manager of each service area/department will be deemed the Complaints Officer for the relevant service or department. Contact details are available on the Western Care Association website at www.westerncare.com

If a complaint is made against one of the Complaints Officers, the complaint is dealt with by the Executive Director.

If a complaint is made against the Executive Director or the Board of Directors an external agent will be appointed by the Chairperson of the Board of Directors to manage and investigate this.

Advocacy

The Citizen Information Board (2005) (previously Comhairle) defines advocacy as a means of empowering people by supporting them to assert their views and claim their entitlements and where necessary, representing and negotiating on their behalf.

Advocacy Facilitator

The Advocacy Facilitator will be available to service users in adult services to ensure that all complaints are appropriately responded to.

Nominated Person

In children's respite services, a member of the staff team will be the nominated person to be available to children and families to ensure that all complaints are appropriately responded to and that the required records are maintained.

Complaints Administrator

The Complaints Administrator will be responsible to maintaining a log of all complaints and analysing for trends.

The Complaints Administrator will be responsible for providing the Board of Directors, Leadership Team and HSE with a six monthly report and annual report in relation to complaints.

The Complaints Administrator will be responsible for carrying out audits of complaints records to ensure that the complaints officer maintains a record of all complaints including details of any investigation into a complaint, the outcome of a complaint and any action taken on foot of a complaint and whether or not the resident is satisfied with the outcome.

Internal Reviewer

The Internal Reviewer will be responsible for carrying out a review of a complaint in the event of the complainant appealing the outcome of their complaint.

4. Who can Make a Complaint?

Any person/family who is being or was provided with a health or personal social service by the Service or who is seeking or has sought provision of such service may complain, about any action of the Service Provider that:

- a) It is claimed, does not accord with fair and sound administrative practice, and*
- b) Adversely affects or affected that person.*

The Health Act 2004, Section 46 (3) identifies that if a person entitled to make a complaint is unable to do so because of age, illness or disability, the complaint may be made on that person's behalf by:

- 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 the person*
- c) Any legal representative of the person*
- d) Any other person with the consent of the person.*

In the event of a complaint being made on behalf of a third party the centre where the complaint is lodged must endeavour to ensure, where appropriate that the complaint is being made with the consent of the third party.

5. How can Complaints be Made?

Complaints can be made either verbally, written, email or fax. See Appendix 1

Any staff member can receive a complaint and they should deal with it in line with this policy. Where a complaint is in relation to another service, they should record the complaint on the Complaint Register (Appendix 1) and forward it to the Complaints Officer for that service.

Staff members must be sensitive to complainants who may have poor literacy and/or language skills and must provide assistance and support where required to enable the effective recording of the complaint.

6. Stages of the Complaints Process

Stage 1

- A local resolution of complaints at point of contact (informal).
- Staff can resolve complaints at first point of contact wherever possible.
- This can generally be resolved within 24 hours
- Staff should inform the service user/family of the advocacy supports that are available. (see Section 8)

Stage 2a (Informal resolution)

- The Complaints Officer must consider whether it would be practicable, having regard to the nature and the circumstance of the complaint, to seek the consent of the complainant and any other person to whom the complaint relates to finding an informal resolution of the complaint by the parties concerned.
- Mediation may be used to attempt resolution of the complaint at Stage 2 if both parties agree.
- Informal resolution of the complaint should generally take no longer than 10 working days.
- Where informal resolution was not successful or was deemed inappropriate, the Complaints Officer will initiate a formal investigation of the complaint.

Stage 2b (Formal investigation of complaints)

- Investigation of formal complaints is via Service Manager/ Head of Department, who are the Complaints Officers.
- All formal complaints are acknowledged within 5 working days of decision to pursue formal investigation.
- Complainants should be informed of the advocacy supports available. The Complaints Officer is responsible for carrying out the investigation of the complaint at Stage 2 but will draw on appropriate expertise, skills etc. as required. Where an independent/external investigation of the complaint is required, the Complaints Officer will consult with the Executive Director, who will assign the investigation team. Staff have an obligation to participate and support the investigation of any complaint where requested.
- Where a complaint will be 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 days, then the Complaints Officer must communicate this to the complainant and the relevant service/staff member within 30 working days of acknowledgement of 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.

- Where the 30 day timeframe cannot be met, despite every effort, the 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 Officer must inform the complainant that the investigation is taking longer than six months, give an explanation why and outline the options open to the complainant. She/he should encourage the complainant to stay with the Western Care Association Complaints Management process
- Where the investigation at Stage 2 fails to resolve the complaint, the complainant must be advised of their right to seek an internal review of their complaint, or request an external review by the HSE or the Office of the Ombudsman

APPEALS PROCESS

Stage 3 (Internal Review)

- Complainants have 30 days from the date of the final report from Western Care Association to request an internal review. This will be carried out by the Head of Evaluation and Training.
- Internal reviews should be addressed to:
Head of Evaluation & Training
John Moore Road
Castlebar
Co. Mayo
Tel: 094 90 25133
Email: complaints@westerncare.com
- If the complainant remains dissatisfied with the outcome of the internal review, they can request an external review.

Stage 4: (External Review)

- Complainants have 30 working days from the date of the final report sent by Western Care Association/the internal reviewer to request an external review by the HSE. The Director of Advocacy will examine the request for review and appoint a Review Officer to carry out the review of the complaint if appropriate.
- The Review Officer(s) will review the processes used to carry out the investigation of the complaint and the findings and recommendations made post-investigation. The Review Officer(s) will either uphold, vary or make a new finding and recommendation.

The Review Officer (s) may carry out a new investigation of the complaint or recommend that a local re-investigation of the complaint be carried out by a Complaint Officer independent of the initial investigation team.

All external reviews should be addressed to:

**Director of Advocacy,
“Request for Review”,
National Advocacy Unit, Quality and Patient Safety Directorate,
Oak House, Limetree Avenue,
Millennium Park, Naas,
Co. Kildare
Telephone No: 1890 424 555
Email: yoursay@hse.ie**

Stage 5 (Independent Review - Ombudsman)

- At all stages of the process, complainants must always be made aware by Western Care Association of their right to an independent review of their complaint by the Ombudsman or the Ombudsman for Children.

*Office of the Ombudsman
18 Lr. Leeson Street, Dublin 2.
Tel: +353-1-639 5600
Lo-call: 1890 223030
Tel: 01 678 5222
Email:
ombudsman@ombudsman.gov.ie*

*Ombudsman for Children’s Office
Millennium House
52-56 Great Strand Street
Dublin 1
Lo-call: 1800 20 20 40
Tel: 01-8656800
Email: oco@oco.ie*

- Additional information on both the Ombudsman and the Ombudsman for Children can be found on the following website: www.ombudsman.ie or www.oco.ie

7. Confidential Recipient

A Confidential Recipient is an independent person appointed by the HSE to receive concerns and allegations of abuse, negligence, mistreatment or poor care practices in HSE or HSE funded residential care facilities in good faith from patients, service users, families, other concerned individuals and staff members.

The Confidential Recipient will be independent and will have the authority to examine concerns raised to:

- Advise and assist individuals on the best course of action to take to raise matters of concern
- Assist with the referral and examination of concerns
- Ensure that these matters are appropriately addressed by the HSE and its funded agencies

Leigh Gath
Confidential Recipient for Vulnerable Persons
Training Services Centre
Doodadoyle
Limerick

LoCall 1890 100 014
Mobile 087 6657269
Email leigh.gath@crhealth.ie

8. 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.

The Citizen Information Board (2005) outlines the principles of advocacy as:

- 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

Advocacy In Adult Services

It is preferable that the services of an outside independent advocate is sourced. Details for contacting the Independent Advocate are available on the Western Care Association website (www.westerncare.com).

The Western Care Association Advocacy Facilitator is available to all adult service users in making a complaint. Contact details are available on the Western Care Association Website and displayed in each service. However, a staff member or a trusted person may also be an advocate for service users wishing to make a complaint if it is possible to do so within the principles of advocacy as listed below:

- Before deciding to advocate on behalf of a complainant, staff must ensure that they are in a position to advocate impartially and fairly.
- Staff acting as advocates should have no previous involvement in the actions complained of, or in the examination/investigation of the complaint.
- Staff should 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.
- Any form of advocacy used must be agreeable to both the complainant and the Service.

Advocacy in Children's Services

This policy has outlined that when children and/or families wish to raise a complaint or concern, there is a clear process by which the matter is dealt with whether informally or formally. In addition, there are also timeframes governing certain aspects of the process. However, as an additional support to children and families who have raised a matter of concern, there is a nominated person in each of the children's respite services.

Contact Details for the Nominated Person are set out in the Easy Read version of the Complaints Procedure which is available locally. On making a complaint, children and families should be made aware of who the local nominated person for their service is and provided with contact details for this person. In cases where the nominated person has become involved, they do not get involved in the specifics of resolving the situation at hand, their role is to support the child and family through the complaints process by:

- Being a point of contact for the child and family if they would like to discuss the matter further.
- Advising the child and family about how to follow the complaints process.
- Checking whether the complaint is being addressed as per policy.
- Informing their line manager if they are concerned that the complaints process is not being followed correctly.

Where the nominated person or advocacy facilitator is involved they must keep a record (nominated person/advocacy facilitator tracking form – Appendix 2) of the steps taken in helping the service user /family with the complaints process.

9. Time Frames

Time limits for making a complaint

Part 9, Section 47 of the Health Act 2004 outlines that a complaint must be made within:

- a) 12 months of the date of the action giving rise to the complaint or*
- b) 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/family 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*
- *If the complainant was living abroad and unable to make the complaint within the 12 months' timeframe*

A Complaints Officer must notify the complainant of the decision to extend/not extend time frames within 5 working days.

10. Matters excluded from Right to Complain

Section 48 of the Health Act 2004 (1) outlines that a person is not entitled to make a complaint about any of the following matters:

- A matter that is or has been the subject of legal proceedings before a court of tribunal*
- A matter relating solely to the exercise of clinical judgement by a person acting on behalf of either the Executive (HSE) or a service provider.*
- An action taken by the Executive (HSE) or a service provider solely on the advice of a person exercising clinical judgement in the circumstances outlined in (b) above.*
- A matter relating to the recruitment or appointment of an employee by the Executive (HSE) or a service provider.*
- A matter relating to or affecting the terms or conditions of a contract of employment that the Executive (HSE) or a service provider proposes to enter into or of a contract with an adviser that the Executive (HSE) 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 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 (e.g. complaints made under Part 2 of the Disability Act, 2005).*

If a complaint is not going to be investigated then the Complaints Officer will inform the complainant in writing within 5 working days of receipt of the complaint of the decision/determination that the complaint will not be investigated and the reasons for it.

11. Children wishing to Make a Complaint

Children of sufficient, age, reason and understanding may also make a complaint about any aspect of the service they have received by the HSE or relevant Service Providers, including Western Care Association. Their complaints must always be taken seriously and responded to appropriately.

Suitable communication tools must be developed to enable children to be fully aware of their rights to complain and to inform them of the complaints process.

Children must be made aware of the right to complain to the Ombudsman for Children or to have the outcome of their complaint reviewed by the Ombudsman for Children (see section 6 on the Ombudsman for Children). Under the Ombudsman for Children Act, 2002, the Ombudsman for Children may accept complaints directly from children up to and including 18 years of age.

Children are to be made aware by the Service Provider or HSE, of any appropriate advocacy supports. At all times, care must be taken to ensure that children are appropriately assisted and supported to make a complaint and to partake in the management of the complaint. The level of support required will be dependent on the age and ability of the child.

The welfare of the child is paramount at all times and when the recipient of a complaint from a child is concerned about the safety and wellbeing of the child, that person must ensure that they act appropriately in the best interest of the child and to appropriately implement Children First, National Guidelines for the Protection and Welfare of Children.

The process for dealing with complaints from children will follow the same procedures as outlined in this policy. However, a formal procedure may not always be the most appealing way for Children to air grievances and there should be adequate emphasis on informal ways of dealing with complaints from children where required.

Where the complaint cannot be resolved at the point of contact and the complaint was made by a child on his/her own behalf, if an investigation is required, the Complaints Officer must inform the parent(s)/ legal guardian of the complainant and the intention to investigate and involve the parent(s) / legal guardian of the child in the investigation process.

If the child disagrees with the involvement of the parent(s)/legal guardian, the Complaints Officer must try to establish any underlying issues and identify the best approach for managing the complaint that is in the best interest of the child while having regard to the rights of the parents as enshrined in the Articles of the Constitution dealing with the Rights of the Family.

Timelines are the same as outlined in this document but may need to be reviewed or extended depending on the complexity and sensitivity of the complaint. The expedient management of a complaint made by or on behalf of a child is advised.

The Ombudsman for Children may intervene at any stage of the complaints process (even if Service and/or HSE procedures have not been exhausted) if the complaint has been referred to them by the complainant and if the Ombudsman for Children feels that the complainant has taken reasonable steps to engage with the Service Provider to rectify their complaint.

12. Management of Complaints

The issue of procedural fairness must be considered at all times when investigating any complaint. Procedural fairness must ensure that:

- Complaint handling allows all parties involved in the complaint (including the consumer, the service and specified employees) the opportunity to respond.
- Where an action could adversely affect somebody, the person that may be affected must have the chance to state their point of view before the action is taken.
- The process should be fair to all parties. The Complaints Officer must be impartial, prejudice free and unbiased in their decision making.
- Where a complaint is of a general nature, in that it does not refer to a specific individual, the records will be maintained in a file in the Executive Director's office for the specific purpose of ensuring this information is available to the management of the organisation.

Confidentiality

Complainants must be assured that their complaint and their personal details will be treated in confidence to the greatest extent possible, consistent with public interest and the right to privacy. Complainant's information required for reporting and statistical purposes will be anonymised and all identifiable data will be removed.

However, where the screening and /or investigation of the complaint indicates that there is a requirement to disclose some or all the details of the complaint e.g. there is evidence of abuse that must be reported in accordance with the Western Care Association Adult Safeguarding Policy (WCA 2A.2), Western Care Association Child Protection Policy (WCA 2A.1), Children's First National Guidance for the Protection and Welfare of Children, and the National Policy on Safeguarding Vulnerable Persons at Risk of Abuse. The complainant will be informed immediately and the information will be directed to the appropriate personnel.

Records of formal complaints (including reports and associated documentation) will be filed securely in the Executive Director's office. A file note will be placed on the relevant service user's main file stating that a record is held in the Executive Director's office. Informal complaints will be held securely in the service. All complaints will be recorded on a confidential basis on the Association's complaints database for organisation learning and analysis.

Staff Member and Right to Confidentiality

Particular care, caution and sensitivity must be exercised in certain circumstances, where for example, the good name, reputation and rights under natural justice of a staff member may arise in the context of an initial and as yet unsubstantiated complaint.

Records (including reports and associated documentation) of staff related formal complaints will be held securely in the Executive Directors office and will also be recorded on a confidential basis on the Association's complaints database for organisation learning and analysis. A file note will be placed on the relevant HR File stating that a record is held in the Executive Director's office.

The Freedom of Information Act 1997 and 2003

The Freedom of information Act confers on all persons the right of access to information held by public bodies, to the greatest extent possible, consistent with the public interest and the right to privacy. It is imperative that all staff are cognisant of the right of the complainant to access any information held by Western Care Association in relation to the management of their complaint. Thus staff must ensure that they adhere to the principles of the Data Protection Act 1988 and 2002, that consent to access service user confidential information is obtained where required and that decisions made during the complaint management process are supported by facts and evidence.

Retention of Complaints Files

Informal complaints must be retained on site for 7 years. After this time, they should be sent to central archiving. In the case of formal complaints, these will be held in the Executive Directors office for 7 years. After this time they will be sent to archive.

Managing Complaints

Service User Related Complaints

Complaints received are to be resolved by the individual receiving the complaint, if at all possible, making every effort to resolve the complaint at local level within *twenty four hours*. If necessary ensure the service user/family receives a copy of the accessible version of the complaints procedure.

In endeavouring to resolve a complaint, the staff member should, if necessary, seek assistance from the local manager for resolution purposes.

If this is not possible the complaint should be forwarded to the Complaints officer and dealt with as per Section 6 above.

The Complaints Register (**Appendix 1**) must be completed in all instances.

- (a) The original form should be kept in the Complaints folder in the service.
- (b) A copy should be sent to the Head of Department or Regional Service Manager.
- (c) Where a complaint is dealt with formally, following completion of investigation, the report will be forwarded to the Executive Director for filing.
- (d) For the purpose of analysis and reporting, data in relation to complaints will be forwarded the Complaints Administrator on the Complaints Quarterly Return (Appendix 4).

If the Advocacy Facilitator/Nominated Person is involved, the Advocacy Facilitator/Nominated Person Tracking form (**Appendix 2**) must be completed

- (a) The original form should be kept in the Complaints Folder in the service
- (b) A copy should be sent to the Head of Department or Regional Service Manager
- (c) Instances where the Advocacy Facilitator/Nominated Person are involved should be indicated on the Complaints Quarterly Return (Appendix 4). A copy of this should be held in the Complaints Folder on site.

Care must be taken at all times throughout the procedure to ensure that any information about the service user is confined to what is relevant to the complaint and disclosed only to those people who have a need to know it for the purpose of the investigation of the complaint.

In keeping with good practice, if possible, inform the service user and/or parent/family member/advocate that information from his/her personal file may need to be disclosed to the relevant investigating staff member. If either the service user/parent/family/advocate objects to this, then the effect on the processing of the complaint will need to be explained.

Organisational Learning

Any learning from responding to complaints should be captured on the Western Care Association Organisational Learning Template (Appendix 5). This should be forwarded to the Complaints Administrator with the Quarterly return where applicable.

Adverse Findings

A Complaints Officer will not make a finding or a criticism in his or her report, adverse to a person without having afforded the person concerned the opportunity to consider the proposed findings or criticism and to make representations in relation to it. This is a legislative requirement. The regulations state:

(8) A complaints officer shall not make a finding or criticism in his or her proposed report, adverse to a person, without first having afforded the person concerned the opportunity to consider the finding or criticism and to make representations, which shall be considered, in relation to it.

Report

At the end of the investigation, the Complaints Officer must 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. A copy must also be sent to the Complaints Administrator, together with a copy of **Appendix 1** who will brief the Executive Director.

The final report will include any recommendations needed to resolve the matter. The Complaints Officer will invite everyone involved to contact them with questions about any issues and will advise the complainant of their right to a review of the recommendations made by the Complaints Officer. Recommendations cannot impact on the contractual obligations of the organisation.

Appeals Process

See Section 6

External Review Process

See Section 6

Independent Review

See Section 6

Vexatious Complaints

Vexatious complaints are complaints that are intentionally troublesome. Vexatious complaints are excluded under Part 9 of the Health Act 2004. However, this does not remove the complainant's right to submit their complaint to independent agencies such as the HSE under the HSE Review Process or the Ombudsman/Ombudsman for Children.

If a complaint is found to be vexatious or malicious, no record of the complaint is to be retained in the file of the staff member / service about which the complaint was made.

Before the complaint is deemed vexatious the Complaints Officer must bring it to the attention of the Executive Director.

Anonymous Complaints

All anonymous complaints should be documented on the appropriate complaint reporting forms and brought to the attention of the relevant line manager for a decision as to whether an investigation and/or quality improvements are required on the basis of the complaint.

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

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. Notwithstanding the fact the anonymous complaints cannot be the subject of a formal investigation unless there is supporting evidence, management should assure themselves that the systems in place are robust and the welfare of service user's is not at risk.

If the complaint is made by phone, or by person, the member of staff taking the complaint should encourage the caller to provide a name and telephone number at which they may be contacted. The caller should be advised that unless they provide their name and contact details, it may not be possible to investigate the complaint if the disclosure of identity is regarded as essential to facilitate a full and proper investigation of the complaint.

If an anonymous complainant provides details that enable the identification of individual staff members, these details must be anonymised and there must be no record of an anonymous complaint on the file of any individual staff members.

Persons wishing to make a complaint in confidence

If a complainant makes a complaint in confidence, it must be explained to the individual that it is not possible to guarantee that their personal details will be maintained in confidence should the information be requested at a later stage under the FOI process, Data Protection, legal case or another statutory process.

Refusal to investigate or further investigate complaint

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 *is of the opinion that*:

- *The complaint does not disclose a ground of complaint provided for in section 46*
- *The subject-matter of the complaint is excluded by section 48,*
- *The subject-matter of the complaint is trivial, or*
- *The complaint is vexatious or not made in good faith, or*
- *Is satisfied that the complaint has been resolved.*

A complaints officer 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.

Redress

Redress should be consistent and fair for both the complainant and the service against which the complaint was made. The Service should 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
- Replacement
- Repair/rework
- Correction of misleading or incorrect records
- Technical assistance
- Recommendation to make a change to a relevant policy or law
- A waiver of debt.

Withdrawal of Complaints

A complainant may, at any time, withdraw a complaint made and, on being advised of such withdrawal, the Complaints Officer may cease to investigate or review the complaint. However, where the Complaints Officer has reasonable grounds for believing that public interest would best be served by the continuation of the investigation or review, he or she must refer the matter to the Executive Director for a decision on the matter

Annual Report to HSE

A service provider who has established a Complaints Procedure by agreement with the HSE must provide the HSE with a general report on the complaints received by the service provider 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

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

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

13. Review of Complaints Management Process

Western Care Association as a service provider is required to furnish the HSE Administrative Area General Manager for Consumer Affairs with a twice yearly general report of the management of complaints within their Service in accordance with Section 55 of the Health Act 2004 at a time and in a manner as the Executive may specify, indicating:

- a) Nature of the complaints*
- b) The total number of complaints received*
- c) The number of complaints resolved by informal means, and*
- d) The outcome of any investigation into the complaints.*

To achieve this, the number of complaints received, together with details of the type of complaints must be tracked on a quarterly basis and forwarded to the Western Care Association Complaints Administrator.

14. References and Guiding Documents

Health Service Executive, National Service Plan

“Your Service Your Say” - The Policy and Procedure for the Management of Consumer Feedback to include Comments, Compliments and Complaints (Health Service Executive -2009)

Guidelines for Voluntary Organisations and Hospitals in Drafting Complaints Procedures (Health Service Executive)

Government of Ireland (2004) Health Act 2004 (Stationery Office – Dublin).

The Ombudsman's Guide to Internal Complaints Systems (Office of the Ombudsman)
www.ombudsman.ie.

**WESTERN CARE ASSOCIATION
COMPLAINTS REGISTER**

Details of Person making complaint:

Name:		Tel No:			
Relationship to Service User:		Email:			
Address:		How was issue highlighted	Written <input type="checkbox"/>	In Person <input type="checkbox"/>	Tel <input type="checkbox"/>

Details of Complaint:

Service User Name		Date of complaint:	
Service Name		Time of Complaint:	

Please outline the complaint (use additional sheets if necessary) or attach the complaint if received by letter/email:

Signed: _____

CONTACT INFORMATION**Western Care Complaints Officers**

All Complaints Officers are listed on the Western Care Association website at www.westerncare.com

Alternatively, contact the Complaints Officers as follows:

Complaints Officer
Western Care Association
John Moore Road
Castlebar
Co. Mayo

Tel: 094 90 25133
Fax: 094 90 25207
Email: complaints@westerncare.com
Web: www.westerncare.com

APPEALS:**Internal reviews should be addressed to:**

Head of Evaluation & Training
John Moore Road
Castlebar
Co. Mayo
Tel: 094 90 25133
Email: complaints@westerncare.com

External reviews should be addressed to:

Director of Advocacy,
“Request for Review”,
National Advocacy Unit, Quality and Patient
Safety Directorate,
Oak House, Limetree Avenue,
Millennium Park, Naas,
Co. Kildare
Telephone No: 1890 424 555
Email: yoursay@hse.ie

Independent Reviews:**Office of the Ombudsman**

18 Lr. Leeson Street, Dublin 2.
Tel: +353-1-639 5600
Lo-call: 1890 223030
Tel: 01 678 5222
Email: ombudsman@ombudsman.gov.ie

Ombudsman for Children’s Office

Millennium House
52-56 Great Strand Street
Dublin 1
Lo-call: 1800 20 20 40
Tel: 01-8656800
Email: oco@oco.ie

Confidential Recipient:

Leigh Gath
Confidential Recipient for Vulnerable Persons
Training Services Centre
Doodadoyle
Limerick

LoCall 1890 100 014
Mobile 087 6657269
Email leigh.gath@crhealth.ie

WESTERN CARE ASSOCIATION – COMPLAINTS QUARTERLY RETURN

Name of Service: _____

Date Completed: _____

Completed by: _____

Date Complaint Received	Service User Name	Complainant Name	Relationship to Service User	Give a brief outline of complaint	Give brief outline of how complaint was responded to	Was Designated Person informed of complaint?	Was complaint dealt with formally (i.e. formal investigation) or informally?***	Was complainant satisfied with response to complaint? (YN)	If not, were they informed of appeals process ?(Y/N)	Was complaint upheld? (Y/V)	Date Complaint Closed (if ongoing, please state here)	Was the Advocacy Facilitator / Nominated staff involved?	Was there any organisational learning from this complaint? If yes, please complete relevant form.

** Please also include information on any complaints that were withdrawn

**WESTERN CARE ASSOCIATION
COMPLAINTS – ORGANISATIONAL LEARNING**

Date of Complaint	Service User Initials	Service type (Day/Residential etc.)	Nature of Complaint	Organisational Learning (Please set out any learning from dealing with this complaint that could be shared organisationally to improve the services we provide)

Signed: _____

Date: _____