

Policy / Procedure Details	Title:	Procedure for the Resolution of Concerns and Complaints to Western Care Association	
	Type:	Essential Procedure	
	Related Quality Measure:	Leadership, Governance and Management	
	Code:	1.7	
Original Version Details	Date Released:	02/04/2001	
	Previous Title: <i>(If applicable)</i>	SP 5.1 Persons we Support Complaint Policy SP 5.2 Procedure for the Resolution of Family Concerns and Complaints	
Revised Version/s Details	Date/s Released:	01/02/2011	15/11/2013
		03/02/2015	20/01/2020
Current Version Details	Written By:	Complaints Officer	
	Reviewed By:	Quality, Safety and Risk Committee	
	Approved By:	WCA Board of Directors	
	Date Released:	20/01/2023	
	Monitoring Process:	Procedural Review Process	
	Date Due for Review:	20/01/2026	

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APPENDICES

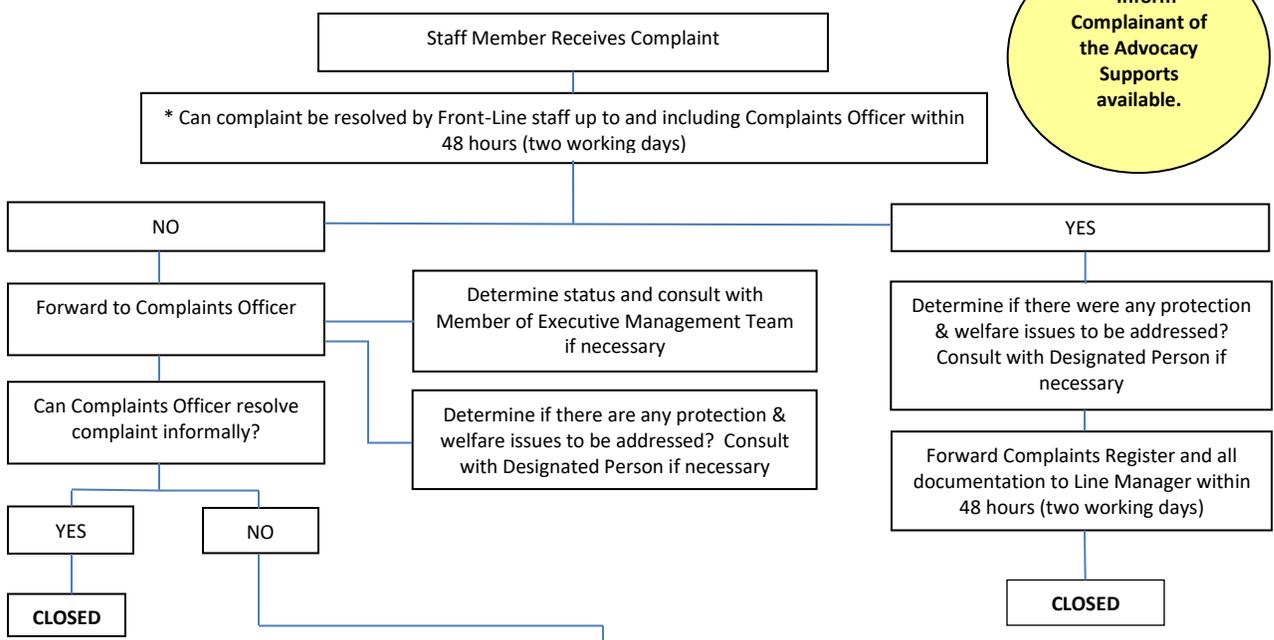
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Disclaimer:

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.

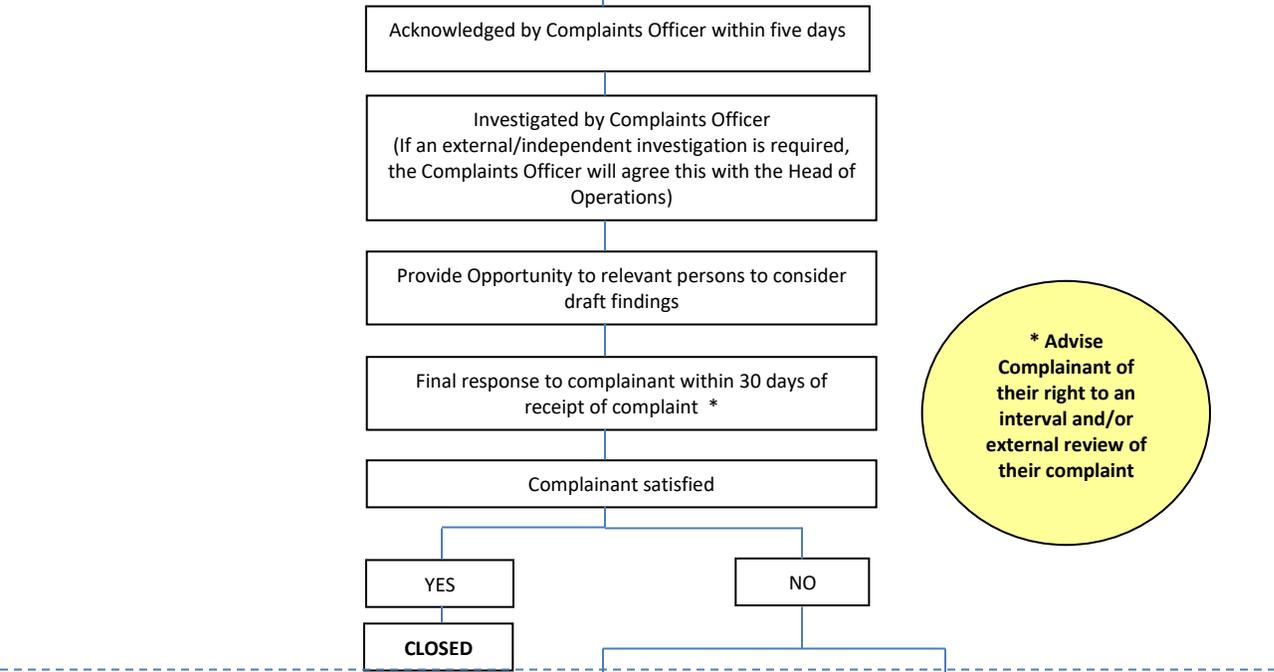
COMPLAINTS PROCESS

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



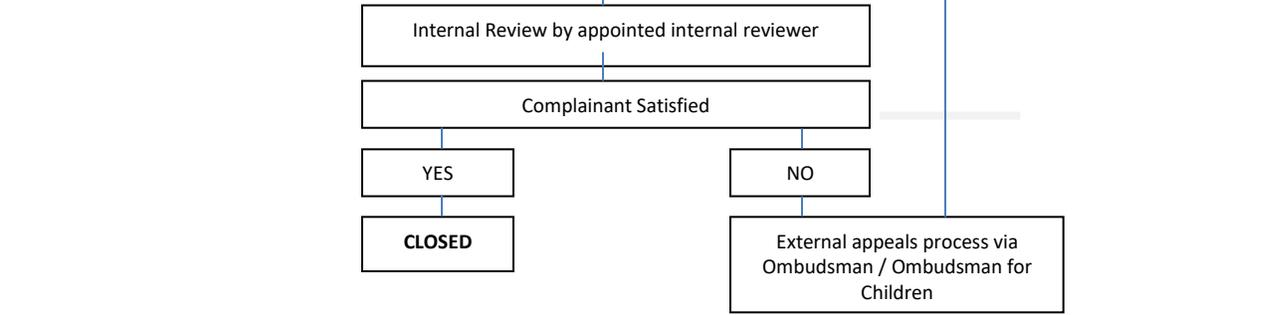
*** Inform Complainant of the Advocacy Supports available.**

INFORMAL RESOLUTION



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

FORMAL RESOLUTION



APPEALS

1. Introduction

Western Care Association is committed to providing a quality service for persons we support 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. All complaints or comments received are viewed as an opportunity to inform service provision and to continually improve the quality of care and service provided to the resident (HSE, 2017).

2. Purpose of the Policy

The purpose of this policy is to ensure that:

- The complaint process is accessible, flexible and responsive to the needs of our persons we support through a “no wrong door” approach.
- An environment which encourages and enables person we support to give feedback is provided and promoted.
- An environment which safeguards the rights of person we support and where those who provide feedback are listened to and treated with dignity, courtesy and empathy is provided and promoted.
- A culture is promoted in which both the person we support and service provider have an equal voice and are considered of equal importance in the process.
- Complaints are responded to and investigated thoroughly in an open, honest and transparent manner.
- Communication with complainant is maintained throughout the process.
- Person we support are involved in and informed of the outcomes of their complaint.
- When failures in care are identified, these are acknowledged, an apology is provided and action is taken where appropriate.
- Person we support and staff involved in complaints are provided with support throughout the complaint’s management process.
- Management and staff are supported to effectively manage complaints.
- The learning from complaints informs service planning and quality improvement programmes to reduce the likelihood of a reoccurrence of the same events. The feedback process complies with obligations in relation to confidentiality, Data Protection and Freedom of Information.

3. Scope

The policy is applicable to all complaints received from the persons we support/family perspective within Western Care Association. An accessible version of this procedure is available to assist person we support who may wish to make a complaint and to assist staff to ensure that person we support as far as possible understand the process.

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 person we support 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.

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.

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 Western Care Association Child Protection Policy, 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.

All staff shall

- Implement local resolution of complaints where possible.
- Ensure they adhere to the process.

Service Manager/Head of department shall

- Assist in immediately resolving a complaint.
- Take a strong participatory role in the investigation of complaints in their area.
- Ensure their staff are appropriately supported throughout the complaint's management process.
- Support a culture of openness and transparency in relation to feedback, including complaints.
- Ensure that relevant staff are appropriately trained in the complaint process to support and provide advocacy for residents to make a complaint, and to understand behaviour that may indicate an issue of concern.
- Ensure the nominated person for complaints maintains all complaint records as required by organisation.
- Ensure all complaints are appropriately responded to.
- Ensure adherence to the process.

4. Who can Make a Complaint?

Any person/family who is being or was provided with a service by Western Care Association or who is seeking or has sought provision of such service may complain, about any action of Western Care Association 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) *Public Representative*
- e) *Any other person with the consent of the person*
- f) *any other person who is appointed as prescribed in the regulations*
- g) *who is appointed as prescribed in the regulations.*

If a person who would otherwise have been entitled to make a complaint is deceased, a complaint may be made by a person who, at the time of the action in relation to which the complaint is made was a close relative, or carer of that person.

5. Time Scales for Making a Complaint

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 person we support/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.

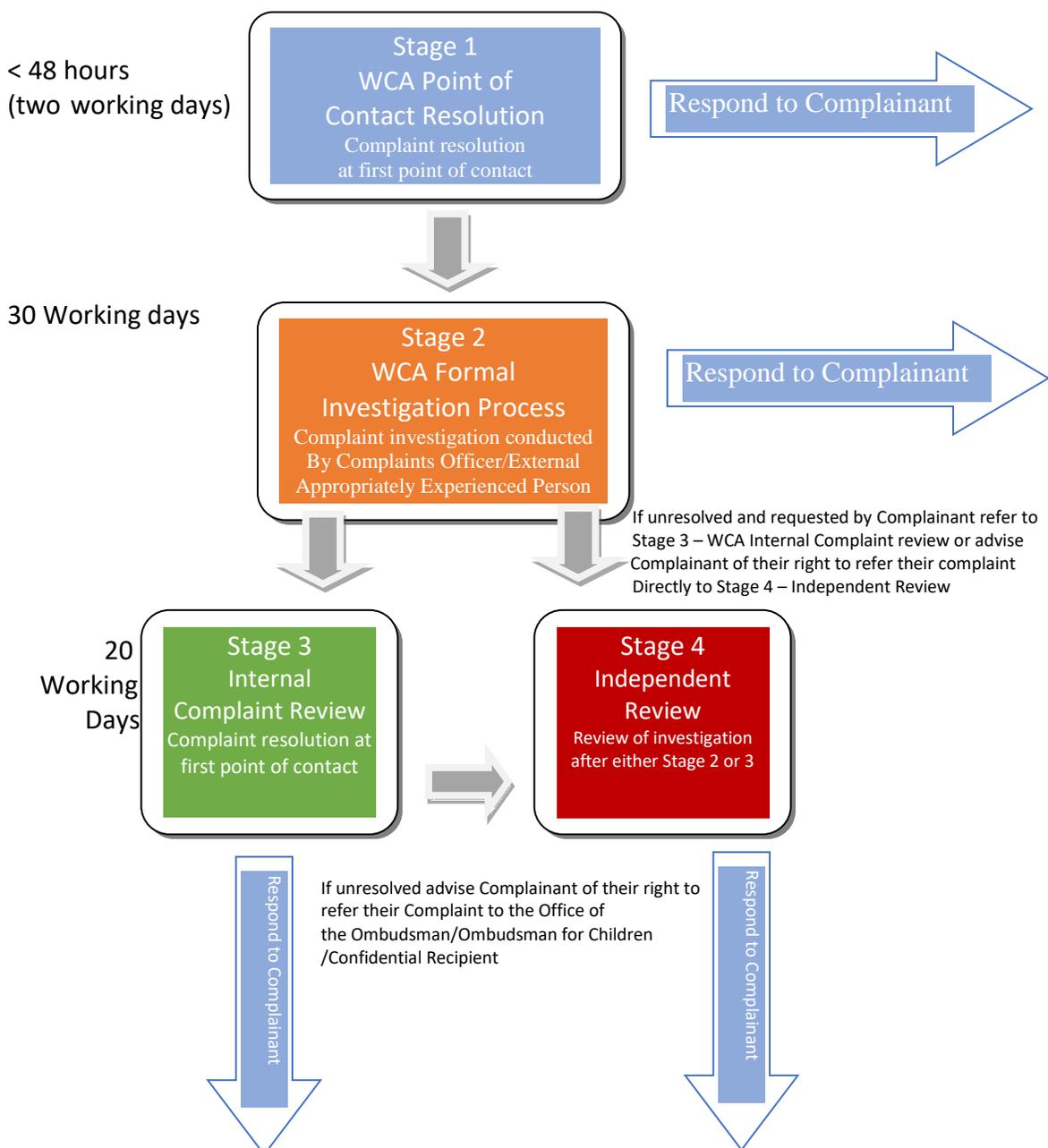
6. How can Complaints be Made?

Complaints can be made either verbally or written. (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 area, they should record the complaint on the Complaints Register 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. The accessible version of the Complaints Procedure should be provided if necessary.

7. Four Stages of the Complaint Management



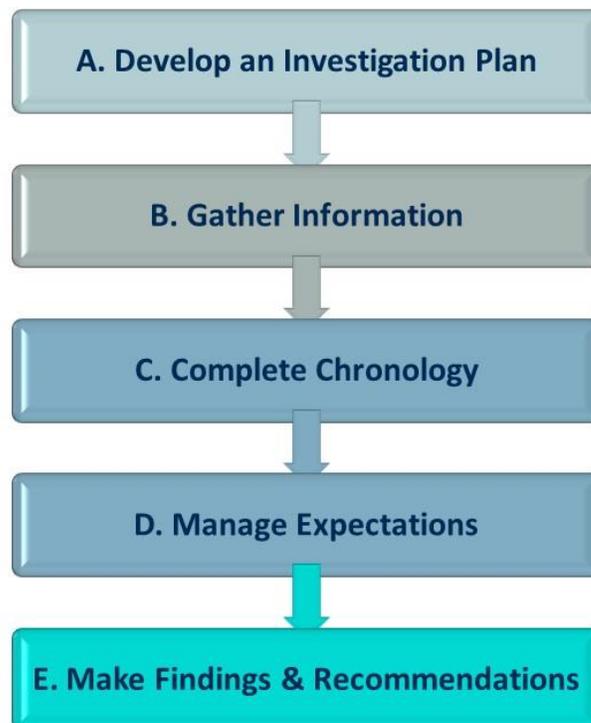
Stage 1 – Informal local resolution

- 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 48 hours
- Staff should inform the person we support/family of the advocacy supports that are available. (see Section 9)

Stage 2a - Formal complaint with an 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 at this stage should be resolved as soon as possible.
- 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 Head of Operations, 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 Office of the Ombudsman/Ombudsman for Children or Confidential Recipient.

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 Training and Development Manager.
- Internal reviews should be addressed to:
Training and Development Manager
Western Care Association
John Moore Road
Castlebar
Co. Mayo
Tel: 094 90 25133
Email: complaints@westerncare.com

- 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.
- The Review Officer must complete their review within 20 working days of receipt of the request. If they are unable to do so, they must inform the Complainant and the Evaluation/Training Department, giving an indication of the additional time they consider necessary to carry out the review.

If the complainant remains dissatisfied with the outcome of the internal review, they can request an external review.

Stage 4: (External Review)

- At any stage of the process, complainants may request an independent review of their complaint by the Ombudsman or the Ombudsman for Children.

Office of the Ombudsman
6 Earlsfort Terrace, Dublin 2,
D02 W773.

Tel: 01 639 5600

Email: complaints@ombudsman.ie

Website: <https://www.ombudsman.ie/>

Ombudsman for Children's Office

Millennium House

52-56 Great Strand Street

Dublin 1

Lo-call: 1800 20 20 40

Email: oco@oco.ie

The Office of the Confidential Recipient
Training Services Centre
Dooradoyle,
Limerick

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

8. Children wishing to Make a Complaint

- 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.

9. 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.

9.1 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 person we support 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 persons we support 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 person we support to appropriate advocacy supports.
- Any form of advocacy used must be agreeable to both the complainant and the Service.

9.2 Confidential Recipient: The 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, persons we support, 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

Confidential Recipient for Vulnerable Persons
Training Services Centre
Doodadoyle
Limerick

10. 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, Western Care Association Child Protection Policy, 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. 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.

10.1 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.

10.2 Retention of Complaints Files

Complaints files will be retained in line with the Record Management Procedure.

10.3 The Freedom of Information Act 2014

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 aware of the right of the complainant to access any information held by Western Care Association in relation to the management of their complaint.

10.4 Data Protection/GDPR

Staff must ensure that they adhere to the principles of the Data Protection Act and GDPR, that consent to access persons we support confidential information is obtained where required and that decisions made during the complaint management process are supported by facts and evidence.

10.5 Consent

The complaints officer must endeavour to ensure, where appropriate that the complaint is being made with the consent of the third party.

10.6 Management of Complaints

Complaints received are to be resolved, if at all possible, at local level within 48 hours.

General Principles:

- The investigation will be conducted thoroughly and objectively with due respect for the rights of the complainant and the rights of the service/staff members to be treated in accordance with the principles of natural justice. The investigation will be carried out in line with the Western Care Association Managing Investigations Procedure.
- The Complaints Officer will have the necessary expertise to conduct an investigation impartially and expeditiously. Where appropriate, the Complaints Officer may draw on person (s) appropriate expertise/skills etc.
- Confidentiality will be maintained throughout the investigation to the greatest extent consistent with the requirements of fair investigation.
- A written record will be kept of all meetings and treated in the strictest confidence
- The Complaints Officer may interview any person who they feel can assist with the investigation. Staff are obliged to co-operate fully with the investigation process and will be fully supported throughout the process.
- Staff who participate in the investigation process will be required to respect the privacy of the parties involved by refraining from discussing the matter with other work colleagues or persons outside the organisation.

- It will be considered a disciplinary offence to intimidate or exert pressure on any person who may be required to attend as a witness or to attempt to obstruct the investigation process in any way.

10.7 Unreasonable Complainant Behaviour

The actions of complainants who are angry, demanding or persistent may ultimately result in unreasonable demands or unacceptable behaviour towards staff. Staff are not expected to tolerate abusive or threatening behaviour, but all feedback must be given equal consideration and be investigated.

10.8 Vexatious Complaints

During investigation if the Complaints Officer determines the complaint to be vexatious or malicious, he/she will not pursue the complaint any further. However, this does not remove the Complainant's right to submit their complaint to independent agencies such as the Ombudsman/Ombudsman for Children.

If a complaint is found to be vexatious or malicious, there will be no record of the complaint 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 Head of Operations/Member of the Senior Management Team.

10.9 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 persons we support is not at risk.

10.10 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.

10.11 Open Disclosure

Western Care Association operates a policy on open disclosure and promotes a culture of openness and transparency in relation to the management of complaints. Further information on, and resources for open disclosure are available on www.hse.ie/opensdisclosure

10.12 Redress

It is the policy of Western Care Association to offer redress as part of their management of feedback. Redress in this circumstance is a commitment to acknowledge, apologise and explain when things go wrong and put things right quickly

10.13 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 Head of Operations for a decision on the matter

11. Review of Complaints Management Process

11.1 Report to HSE

Western Care Association, as a service provider, is required to submit statistical returns on an agreed template to the National Complaints Governance and Learning Team.

Western Care Association as a service provider is required to furnish the National Complaints Governance and Learning Team with a quarterly general report of the management of complaints within their Service.

- 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.*
- e) How many complaints were made*
- f) How many recommendations were made and date of implementation*

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. (Appendix 4)

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

11.2 Report to Western Care Association Board of Directors and Senior Management Team

An anonymised report on complaints is reviewed by the Board of Directors and Senior Management Team on a bi-annual basis.

**WESTERN CARE ASSOCIATION
COMPLAINTS REGISTER**

Details of Person making complaint:

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

Details of Complaint:

Person Supported 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: _____

Do others need to be informed?

Does the Designated Social Worker need to be informed of this complaint?	Yes	No
Does the Health Service Executive need to be informed of this complaint?	Yes	No

Note steps taken to resolve the complaint? This section is for you to record how the complaint is dealt with right up to and including resolution. Please record the actions taken to resolve this issue.i.e. people contacted, outcomes of consultation and note the progression of the complaint. (please attach supporting documentation/letters/minutes etc)

Date	Action	Signed

How was this complaint resolved?	Formally <input type="checkbox"/>	Informally <input type="checkbox"/>
Was the complainant satisfied with the response to the complaint?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If not, have they been informed of the appeals process?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Was the complaint resolved within 30 days?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Was the complaint upheld?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

APPENDIX

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:

Training and Development Manager
John Moore Road
Castlebar
Co. Mayo
Tel: 094 90 25133
Email: complaints@westerncare.com

Office of the Ombudsman

6 Earlsfort Terrace, Dublin 2, D02 W773.
Tel: 01 639 5600
email: complaints@ombudsman.ie
Website: <https://www.ombudsman.ie/>

Ombudsman for Children's Office

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

Confidential Recipient:

Confidential Recipient for Vulnerable Persons
Training Services Centre
Doodadoyle
Limerick

APPENDIX

WESTERN CARE ASSOCIATION – COMPLAINTS QUARTERLY RETURN

Name of Service: _____

Date Completed: _____

Completed by: _____

Date Complaint Received (dd/mm/yyyy)	Person Supported Name	Name of Complainant (Person Making Complaint)	Relationship of complainant to Person supported	Give a brief outline of complaint that was made	Give brief outline of how complaint was responded to	Was Designated Person (Social Work) informed of the complaint (Y/N)	Name of staff member that dealt with the complaint	Was complaint dealt with formally (i.e. formal investigation) or informally?	Was complainant satisfied with response to complaint (Y/N)	If not, were they informed of appeals process (Y/N)	Was complaint upheld (Y/N)	Date Complaint Closed (if ongoing, please state here)	Was the Advocacy Facilitator/ Nominated staff involved (Y/N)	Was there any organisational learning from this complaint?	If recommendations were made, please list them numerically here (i.e. listed 1,2,3 etc.)	Date Recommendation was implemented (listed 1,2,3 etc. followed by date)

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

APPENDIX

**WESTERN CARE ASSOCIATION
COMPLAINTS – ORGANISATIONAL LEARNING**

Date of Complaint	Person Supported 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: _____

APPENDIX

Matters excluded from Right to Complain

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

- a) *A matter that is or has been the subject of legal proceedings before a court of tribunal*
- b) *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.*
- c) *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.*
- d) *A matter relating to the recruitment or appointment of an employee by the Executive (HSE) or a service provider.*
- e) *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).*
- f) *A matter relating to the Social Welfare Act.*
- g) *A matter that could be subject of an appeal under Section 60 of the Civil Registration Act 2004.*
- h) *A matter that could prejudice an investigation being undertaken by the Garda Síochána.*
- i) *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) or the Mental Health Act 2001*

APPENDIX

Refusal to investigate or further investigate complaint

In accordance with Part 9 of the Health Act 2004, a Complaints Officer shall not investigate a complaint if:

- (a) 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.*
- (b) the complaint is made after the expiry of the period specified or any extension of that period allowed.*

A Complaints Officer may decide not to investigate or further investigation 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:

- (a) is of the opinion that:*
 - (i) the complainant does not disclose a ground of complaint as outlined in Section 46, Part 9 of the Health Act 2004,*
 - (ii) The subject-matter of the complaint is excluded by Section 48 of the Health Act 2004,*
 - (iii) the subject matter of the complaint is trivial, or*
 - (iv) The complaint is vexatious or not made in good faith, or*
 - (v) 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.

APPENDIX

GLOSSARY OF TERMS AND DEFINITIONS

Complaint	<p>A “complaint” is an expression of dissatisfaction, which needs a response. The Health Act 2004 Part 9, Section 45 identifies that a complaint “<i>is about any action of the Executive (HSE) or a service provider that:</i></p> <ul style="list-style-type: none"><i>a) It is claimed, does not accord with fair or sound administrative practice, and</i><i>b) Adversely affects the person by whom or on whose behalf the complaint is made”.</i>
Informal Complaint	<p>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.</p>
Formal Complaint	<p>A formal complaint is a complaint that requires a formal investigation in order to proceed to a resolution.</p>
Complainant	<p>Person (s) making a complaint. 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:</p> <ul style="list-style-type: none"><i>(a) It is claimed, does not accord with fair or sound administrative practice, and</i><i>(b) Adversely affects the person by whom or on whose behalf the complaint is made.</i>
Person we Support:	<p>Person we support refers to a person who uses the services of Western Care Association.</p>
Complaints Officer	<p>Within Western Care Association, the Area Manager/Department Manager of each service will be deemed the Complaints Officer for the relevant service or department. Contact details for Complaints Officers are available on the Western Care Association website at www.westerncare.com</p> <p>If a complaint is made against a Complaints Officer, the complaint is dealt with by the Head of Operations.</p> <p>If a complaint is made against the Head of Operation it will be dealt with by the Training and Development Manager.</p> <p>In the event of a complaint being made against the Training and Development Manager or the Board of Directors an external agent will be appointed by the Chairperson of the Board of Directors to manage and investigate this.</p>

Advocate:	An advocate is somebody who can act on the person’s behalf when dealing with the service. 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.
Vexatious Complaint	A vexatious complaint is a complaint causing or with the intent of causing annoyance, frustration, or worry.
Advocacy Facilitator	The Advocacy Facilitator will be available to persons we support 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	<p>The Complaints Administrator will be responsible to maintaining a log of all complaints and analysing for trends.</p> <p>The Complaints Administrator will be responsible for providing the HSE with Quarterly Returns and the Board of Directors, Senior Management Team with a six-monthly report and annual report in relation to complaints.</p>
Clinical Judgement	<p>The Health Act 2004 defines clinical judgment as being “a decision made or opinion formed in connection with the diagnosis, care or treatment of a patient”.</p> <p>Close Relative: Section 45 of the Health Act 2004 defines “Close Relative” as a person who;</p> <ul style="list-style-type: none"> • Is a parent, guardian, son, daughter or spouse of the other person; or • Is cohabiting with the other person
Internal Reviewer	The Internal Reviewer will be responsible for carrying out a review of their complaint. They will review the appropriateness of a recommendation complaint in the event of the complainant appealing the outcome of made by a Complaints Officer, having regard to all aspects of the complaint and its investigation.
Upheld Complaint	Complaints where the outcome was 'upheld' are those where we investigated, and found that something went wrong or wasn't to an acceptable standard.