

## **Appendix III**

### **Complaints Procedure**

#### **Definition of a complaint (as per the Health Act 2004)**

A “complaint” means a complaint made about any action of Cork Deaf Association or that it is claimed, does not accord with fair or sound administrative practice, and adversely affects the person by whom or on whose behalf the complaint is made.

#### **Purpose**

The purpose of this procedure is to enable people who use our service to express any problems or concerns they may have and to have them resolved quickly and satisfactorily. Cork Deaf Association has introduced this procedure to ensure each individual is treated equally and fairly and that consistency can be exercised in the event of a complaint about our service.

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

Any person who is being or was provided with a service by Cork Deaf Association or who is seeking or has sought provision of such service may make a complaint in accordance with the procedures set out below.

#### **How can I make a complaint?**

You may make a verbal complaint by telephone or in person. Alternatively, you may prefer to make your complaint in writing by post, fax or email.

#### **Advocacy**

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

#### **Acknowledgement of complaint**

Upon a complaint being received by the Manager, he or she shall notify, within 5 working days, the complainant, in writing, that the complaint has been so received and outline the steps that he or she proposes to take in investigating the complaint and the time limits for the completion of the investigation.

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

Stage 1: *Management of a Verbal Complaint at the Point of Contact.*

Staff should have clear delegations to resolve verbal complaints at first point of contact wherever possible.

Stage 2a: *Informal Resolution*

The Manager 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.

Where informal resolution was not successful or was deemed inappropriate, the Manager will initiate a formal investigation of the complaint.

Stage 2b *Formal Investigation*

The Manager is responsible for carrying out the formal investigation of the complaint at Stage 2 but may draw on appropriate expertise, skills etc as required. Staff have an obligation to participate and support the investigation of any complaint where requested.

Where the investigation at Stage 2 fails to resolve the complaint, the complainant may progress to Stage 3.

Stage 3 *Internal Review*

The complainant will be advised that, if they are unsatisfied with the outcome of the formal investigation, they have a right to ask for an Internal Review by writing to the Chairperson of the Association within 30 working days of the Manager's Complaint Report. The Chairperson or another Board Member designated by the Chairperson will act as the Internal Review Officer.

The Internal Review Officer will review the processes used to carry out the investigation of the complaint and the findings and recommendations made post-investigation.

The internal Review Officer will either uphold, vary or make a new finding and recommendation.

The Internal Review Officer may carry out a new investigation of the complaint or recommend that a re-investigation of the complaint be carried out by another staff member independent of the initial investigation team.

The Internal Review Officer has 20 days within which to conduct the review. This time frame may be extended in certain circumstances of which the complainant will be kept informed.

#### Stage 4 *Independent Review*

If the complainant is unsatisfied with the internal review process, he/she may seek a review of the complaint by the Ombudsman for Children or other relevant external body.

The complainant must be informed of their right to seek an independent review from the Ombudsman for Children or other relevant external body at any stage of the complaint management process.

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

- The Manager will inform the complainant in writing, within 5 working days of making the decision/determination, that the complaint will not be investigated and the reasons for it.
  - Where the complaint will be investigated, the Manager must endeavour to investigate and conclude the investigation of a complaint within 30 working days of it being acknowledged.
  - If the investigation cannot be investigated and concluded within 30 working days then the Manager must communicate this to the complainant and the relevant service/staff member within 30 working days of acknowledging the complaint and give an indication of the time it will take to complete the investigation.
  - The Manager must update the complainant and the relevant staff/ service member every 20 working days.
  - The Manager must endeavour to investigate complaints within 30 working days. However, where the 30 working days time frame cannot be met despite every best effort, the Manager 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 Manager must inform the complainant that that the investigation is taking longer than 6 months, give an explanation why and outline the options open to the complainant.

#### **Time Limits for making a complaint**

The Manager must determine if the complaint meets the time frames as set out in Section 47, Part 9 of the Health Act 2004, which requires that:

A complaint must be made within 12 months of the date of the action giving rise to the complaint or within 12 months of the complainant becoming aware of the action giving rise to the complaint. The Manager may extend the time limit for making a complaint if in the opinion of the Manager 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 the new relevant, significant and verifiable information relating to the action becomes available to the complainant
- If it is considered in the public interest to investigate the complaint
- If the complaint concerns an issue of such seriousness that it cannot be ignored
- Diminished capacity of the service user at the time of the experience e.g. mental health, critical/ long-term illness.
- Where extensive support was required to make the complaint and this took longer than 12 months
- The Manager must notify the complainant of decision to extend / not extend time limits within 5 working days.

### **Matters excluded (as per Part 9 of the Health Act 2004)**

A person is not entitled to make a complaint about any of the following matters:

- (a) a matter that is or has been the subject of legal proceedings before a court or tribunal;
- (b) a matter relating solely to the exercise of clinical judgment by a person acting on behalf of Cork Deaf Association
- (c) an action taken by Cork Deaf Association solely on the advice of a person exercising clinical judgment in the circumstances described in paragraph (b);
- (d) a matter relating to the recruitment or appointment of an employee by Cork Deaf Association
- (e) a matter relating to or affecting the terms or conditions of a contract of employment Cork Deaf Association proposes to enter into or of a contract with an adviser that Cork Deaf Association proposes to enter into under section 24;
- (f) a matter relating to the Social Welfare Acts;
- (g) a matter that could be the 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.

### **Redress**

Redress should be consistent and fair for both the complainant and Cork Deaf Association. Cork Deaf Association 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
- Refund
- Admission of fault
- Change of decision
- Replacement
- Repair /rework
- Correction of misleading or incorrect records
- Technical or financial assistance
- Recommendation to make a change to a relevant policy or law
- A waiver of debt

The Manager may not, following the investigation of a complaint, make a recommendation the implementation of which would require or cause—

(a) Cork Deaf Association to make a material amendment to its approved service plan, or

(b) Cork Deaf Association to make a material amendment to an arrangement under section 38.

(2) If, in the opinion of the relevant person, such a recommendation is made, that person shall either—

(a) amend the recommendation in such manner as makes the amendment to the applicable service plan or arrangement unnecessary, or

(b) reject the recommendation and take such other measures to remedy, mitigate or alter the adverse effect of the matter to which the complaint relates as the relevant person considers appropriate