

APT's Comments and Complaints Procedure

This document sets out to achieve a clear process for service users to make comments / complaints to APT and to outline the process for dealing with any such matters.

We see any comment, compliment or complaint as a chance to improve the quality of our services and to learn lessons from any mistakes made. We want to hear from you when things are not right and also when things work well.

- **Definition of a Complaint**

(Definition as per the Health Act 2004) “complaint” means a complaint made under this Part about any action of the Executive or a service provider that—
(a) it is claimed, does not accord with fair or sound administrative practice, and adversely affects the person by whom or on whose behalf the complaint is made;

- **Who can make a Complaint**

Any person who is being or was provided with a health or personal social service by APT or who is seeking or has sought provision of such service may complain, in accordance with the procedures established under this Part, about any action of APT that -

- (a) it is claimed, does not accord with fair and sound administrative practice, and
- (b) adversely affects or affected that person

- **How Comments or Complaints can be made**

Comments or Complaints can be made verbally, in writing, by email or fax.

An APT Comments and Complaints Form (see attached) is also available to service users.

If you make a complaint by phone or in person, you are encouraged to your name and telephone number. Unless you give a name and contact details, it may not be possible to investigate the complaint properly.

- **Acknowledgements**

(HEALTH ACT 2004)

Acknowledgement of complaints

7. (1) Upon a complaint being received by or assigned to the complaints officer (including a referral under section 48(2)), he or she shall notify, within 5 working days, the complainant, in writing, that the complaint has been so received or assigned 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.

- **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.

Citizen Information (Comhairle 2005) 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.

- **Stages of the Complaints Management Process**

It is APT's intention to resolve the complaint at the earliest point possible.

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

Frontline staff are empowered to deal with informal complaints and will receive training for this purpose.

Informal complaints will be recorded by staff.

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.

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

The Complaints Officer 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 seek a review of their complaint by the HSE Internal Process at Stage 3.

- Stage 3: Review (HSE)

All requests for a HSE review should be forwarded to:

The Head of Consumer Affairs, HSE, Oak House, Millennium Park, Naas, Co.Kildare

The Head of Consumer Affairs will examine the request for review and appoint a Review Officer if appropriate to carry out the review of the complaint.

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 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

Stage 4: Independent Review (Ombudsman)

If the complainant is not satisfied with the outcome of the complaints management process he/she may seek a review of the complaint by the Ombudsman/ Ombudsman for Children.

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

- **Privacy and Confidentiality**

We are committed to keeping private and confidential any information you give us when making a complaint. All our staff are responsible for ensuring that your privacy and confidentiality are maintained.

Managing Complaints

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

A Complaints Officer 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 is being 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 working days then the Complaints Officer 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 Complaints Officer must update the complainant and the relevant staff/ service member every 20 working days.

The Complaints Officer must endeavour to investigate complaints within 30 working days. However, where the 30 working days time frame cannot be met despite every best effort, 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 person must inform the complainant that the investigation is taking longer than 6 months, give an explanation why and outline the options open to the complainant. He/She should encourage the complainant to stay with the local APT complaints management process while informing them that they may seek a review of their complaint by the Ombudsman/ Ombudsman for Children.

- **Time Limits for making a Complaint**

The Complaints Officer 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

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 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
- A Complaints officer 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)**

48 — (1) 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 either the Executive or a service provider;
 - (c) an action taken by the Executive or a service provider 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 the Executive or a service provider;
 - (e) a matter relating to or affecting the terms or conditions of a contract of employment that the Executive or a service provider proposes to enter into or of a contract with an adviser that the Executive 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.
- (2) Subsection (1) (i) does not prevent a complaints officer from dealing with a complaint that was made to the Ombudsman or the time limit for making complaints.

- **Independent Review – Ombudsman**

Nothing in this Part prohibits or prevents any person who is dissatisfied with a recommendation made or step taken in response to a complaint under this Part or with a review under this Part from referring the complaint to 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

Fax: (01) 639 5674

Ombudsman for Children's Office

Millennium House

52-56 Great Strand Street

Dublin 1

Tel: 01-8656800

- **Vexatious Complaints**

- If found to be frivolous or vexatious, APT 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 General Manager of APT.

- **Redress**

An effective complaints system which offers a range of timely and appropriate remedies will enhance the quality of service to the consumers of APT. It will have a positive effect on staff morale and improve APT's relations with the public. It will also provide useful feedback to APT and enable it to review current procedures and systems which may be giving rise to complaints.

Redress should be consistent and fair for both the complainant and the service against which the complaint was made. APT will 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

A complaints officer may not, following the investigation of a complaint, make a recommendation the implementation of which would require or cause —

- (a) the Executive to make a material amendment to its approved service plan, or
- (b) a service provider and the Executive 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

- **Annual Report to the 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

