


**SD-13**

## **POLICY AND PROCEDURE**

### **Comments and Complaints**

Approved by:

  
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Date Effective From:

18-4-2017

Review Date:

April, 2020

# Carriglea Cáirde Services

## Procedures Manual

**Title: COMMENTS AND COMPLAINTS**

### **1.0 Scope**

1.1 The policy and procedure used in responding to comments and complaints from service users, families and advocates.

### **2.0 Aims and Values**

2.1 To ensure that service users, families and advocates know how to make comments and complaints.

2.2 To ensure that staff are aware of how to deal with comments and feedback.

2.3 There is a satisfactory response to all comments and complaints.

### **3.0 Contents**

6.0 Policy

7.0 Definition of a Complaint

8.0 Who can make a complaint

9.0 Complaints Procedure

10.0 Complaints Logs

11.0 Statistical Returns to the HSE

12.0 Complaints that are not covered by this policy

13.0 List of Complaints Officers and Review Officers.

### **4.0 Referenced Documents**

HR-07 Dignity at Work

HR-12 Grievance and Disciplinary Procedure

HR-28 Trust in Care

SD-43 Safeguarding Vulnerable Persons at Risk of Abuse

SD-25 Information Governance-Confidentiality, Data Protection and Freedom of Information

C4-14 Complaints Management Forms

C4-63 Safeguarding Referral Form

Comments and Complaints Form - '*Having Your Say*'

Complaints Log

### **5.0 Responsibilities**

5.1 Complaints Officers, Managers and all staff.

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## 6.0 COMMENTS AND COMPLAINTS POLICY FOR SERVICE USERS FAMILIES AND ADVOCATES

Carriglea Cáirde Services has a culture of openness that welcomes feedback, the raising of issues and the making of comments and complaints by service users and their families. These are seen as a valuable source of information and are used to make improvements in the service provided. We welcome positive comments so that we can build on our successes and we will share positive feedback with the relevant staff. We will listen carefully to all negative comments or complaints and seek to resolve them if possible.

This policy outlines how we will listen to and act on feedback that we receive from service users or their advocates/families. It explains how service users or their families can make a comment or complaint and advises on service users rights.

It may not be possible to satisfactorily resolve an issue or complaint if the response required would entail a material change to our Service Level Arrangement with the HSE or the terms under which Carriglea Cáirde Services was established.

In instances where resources affect our ability to respond to comments and complaints, where appropriate, we will identify and include such issues in our service plans and work with the statutory authorities to put the necessary resources in place.

Carriglea Cáirde Services expect that in most instances negative feedback and complaints can and will be discussed and resolved informally at local level either directly with a staff member or with his/her manager. The best way to resolve negative feedback or any issue that you may have, is, in as far as possible, to communicate directly with the people who are involved with the issue.

Some service users may not have the capacity to articulate comments or complaints. In such cases we encourage and support the use of advocates or self advocacy groups.

Categories of complaints that are not covered by this procedure are outlined at 11.00 of this document and must be adhered to under separate policies and procedures.

A copy of 'Having your Say' comments and complaints form is displayed in a prominent place in all residential and day services along with details of the complaints officers in an accessible format.

All service users are issued with a copy of 'Having Your Say' comments and complaints form as part of the service users Information Pack.

No resident will be adversely affected by reason of a complaint having been made.

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## 7.0 DEFINITION OF A COMPLAINT

The Health Act, 2004 defines a complaint as *“any action of the Executive or Service Provider 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”*

An action does not accord with fair and sound administrative practice if it is:

- Taken without proper permission or authority
- Taken on irrelevant grounds.
- The result of negligence or carelessness.
- Based on wrong or incomplete information.
- Discriminatory
- Based on poor administrative practice.
- In any respect contrary to fair or sound administration.

## 8.0 WHO CAN MAKE A COMPLAINT?

Any person, who has received, is currently receiving or seeking a service from Carriglea C  irde Services can make a complaint.

If a person is unable to make the complaint personally because of incapacity the complaint may be made on their behalf by:

- A close relative or carer of the person
- Any legal representative of the person
- Any other person with the consent of the service user
- If the person who would otherwise have been entitled to make the complaint is deceased a complaint may be made on their behalf.

## 9.0 COMPLAINTS PROCEDURE

### Informal Raising of Concerns or Issues

An issue, concern or complaint can be made to any member of staff.

**When an issue or concern is raised with a staff member, that person will address the issue or the concern within the remit of their responsibility. Each staff member has a responsibility to respond to the concerns of service users, take them seriously and handle them promptly, appropriately and sensitively. Every effort should be made to resolve issues or concerns locally.**

### *Dealing with a Concern or Issue at the Point of Contact.*

How staff respond to concerns or issues raised by a service user or family member may determine whether that concern or issue becomes a formal complaint. When an issue or concern is raised the staff member must:

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- 1 Listen carefully to the concerns or issues being raised.
2. Give the person their full attention.
- 3 Summarise the issues to clarify and check that he/she has understood the nature of the concern.
4. Empathise and acknowledge the feelings of the person raising the issue.
- 5 Explain that it is the policy of the Services to endeavour to resolve any issues raised.
6. Find out what outcome the person raising the concern or issue would like.
- 7 Take appropriate action if it is possible to deal with the concern or issue locally
8. Record the complaint in the Complaints Log in the area/house.
- 9 Refer the concern or issue to the local team leader/manager if it is not possible to deal with the concern or issue effectively yourself
10. Send an e-mail message to the relevant Senior Services Manager giving notification that a complaint has been logged.

When an issue or concern cannot be dealt with informally, a service user/advocate/family member can use the formal complaints procedure.

### **Resolution of a Verbal Complaint at Local Level.**

On receipt of a verbal complaint, if at all possible, the senior staff on duty will address the issues raised immediately or begin the process of addressing the complaint before the end of the next working day

### **When a verbal Complaint is received, the senior staff on duty who receives the complaint:**

- 1 Gathers information about the issues or concerns, and ascertains what outcome the person making the complaint wishes.
2. Explains the complaints process to the person making the complaint
4. Discusses the issues or concerns with the relevant people including the relevant manager
5. Records full details of the complaint, discussions and all actions taken on the *Complaints Log*.
6. Goes back to the person who has made the complaint with the outcome of any discussion and with a proposal in relation to resolving the complaint.
- 7 If the person is satisfied, local resolution has been achieved and this is recorded on the *Complaint Log*.

At any stage in this process the staff/manager can seek help, support and advice from a Complaints Officer

### **Formal Complaints:**

#### **Dealing with a formal written complaint**

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If the person with the complaint is not satisfied with the proposed resolution at local level or where a verbal complaint cannot, or should not be resolved at local level, a written complaint should be made to a Complaints Officer using the *Complaints Form 'Having Your Say'*

A written complaint may also come directly to a Complaints Officer from the outset.

***Written Complaints to a Complaints Officer***

- 1 Acknowledgement: A written complaint received by a Complaints Officer will be acknowledged in writing within 5 working days. The Complaints Officer will explain the complaints procedure and ascertain what outcome the person making the complaint wishes.
2. The Complaints Officer will inform the relevant manager that a complaint has been received. The Complaints Officer and the relevant manager will liaise and will make every effort to resolve the problem as quickly as possible.
- 3 The Complaints Officer may suggest the use of Mediation services if appropriate.
4. If the complaint is not, or cannot, be resolved to the person's satisfaction at this level, a formal investigation is undertaken by the Complaints Officer. In carrying out the investigation, the Complaints Officer may request any relevant documents and speak with anybody he or she thinks may assist in the investigation of the complaint.
5. Where a conflict of interest may arise for a Complaints Officer, the Complaints Officer in consultation with the Chief Executive will refer the investigation to another Complaints Officer.
6. The Complaints Officer will seek to complete the investigation within 30 working days of acknowledging receipt of the complaint. If the investigation is likely to take longer than 30 days, the Complaints Officer will inform the person who made the complaint and the relevant staff or manager of progress within 30 working days, and after that, every 20 days.
- 7 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, 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 person making the complaint that the investigation is taking longer than 6 months, give an explanation why, and outline the options open to the person. If he/she is not happy with this response he/she may ask to be referred to the Chief Executive.

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8. Any investigations, recommendations or resolution of the complaint will be recorded on the *Complaints Management Form* and all associated documentation will be attached and retained by the Complaints Officer.
9. On completion of the investigation the Complaints Officer will make recommendations for the resolution of the complaint and discuss these with the person making the complaint and the relevant staff/manager. The Complaints Officer will send a report of the outcome of the investigation and the recommendations to the local manager, the senior services manager and the Chief Executive.
10. The report of the outcome of the complaint will be sent to the person who made the complaint. Within 30 working days of receiving the report from the Complaints Officer the relevant local manager will inform the person making the complaint and the Complaints Officer of the steps being taken to implement the recommendations or if the recommendations are being amended or rejected and the reasons why.
11. If the person making the complaint is not satisfied with the investigation or the recommendations of the Complaints Officer, he or she may apply for a review of the recommendations.

### Review Process

1. If the person making the complaint is not satisfied with the recommendations made by the Complaints Officer, he or she may apply for a review of the recommendations within 30 working days of the date the report was signed by the Complaints Officer. This will be carried out by a Review Officer appointed by the Chief Executive. The Review Officer(s) will be drawn from the list of complaints officers.
2. The name and contact details of who will be undertaking the review will be given to the person making the complaint within 5 working days of the receipt of the appeal for review.
3. The Review Officer, will carry out an impartial review of recommendations made and the processes used to investigate the complaint.
4. The Review Officer will endeavour to conduct and conclude the review within 20 working days of the request being made. If the review is going to take longer the Review Officer will inform the person who made the complaint and will give a progress report to the person making the complaint within 20 working days and every 20 working days thereafter.
5. The Review Officer may:
  - Uphold the original recommendation
  - Vary the original recommendation
  - Make a new recommendation.

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The Review Officer(s) must give reasons for the above.

6. The Review Officer will prepare a report on the review and send it to the person making the complaint, the Complaints Officer who investigated the complaint, the Senior Services Manager and the Chief Executive.
7. If it is the view of the Review Officer that the complaint had been fully and fairly investigated by the Complaints Officer, he/she will indicate that the original recommendations are being upheld, and recommend acceptance by the person making the complaint of the outcome of the original investigation.
8. If the review showed that the original process did not adequately investigate the complaint, the report of the Review Officer will outline where the investigation was not adequate.
9. If the recommendations of the original investigation are being varied or if there are new recommendations, the report of the Review Officer will give reasons for such decisions.
10. The report must also indicate the right of the person making the complaint to seek a review by the Ombudsman.
11. Within 30 days of receiving the report of the Review Officer, the Senior Services Manager or the Chief Executive will inform the person making the complaint and the original Complaints Officer, of the steps being taken to implement the recommendations or the reasons for any amendment or rejection of the recommendations.

### **Independent Review**

If the person who made the complaint is dissatisfied with the outcome of the investigation by Carriglea Cairde Services, they are informed of their right to an independent review of their complaint by the Ombudsman. The Ombudsman provides an impartial, independent and free service. By law, the Ombudsman can examine complaints about any administrative actions or procedures of Carriglea Cáirde Services as well as delays or inaction in the services dealings with service users.

Contact details are as follows:

OMBUDSMAN  
Office of the Ombudsman,  
18 Lr Leeson Street,  
Dublin 2.  
Tel. +353-1-639 5600  
Lo-call. 1890 223030  
Email. [ombudsman@ombudsman.ie](mailto:ombudsman@ombudsman.ie)

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A complaint can also be made to the ombudsman online by using the complaint for on [www.ombudsman.ie](http://www.ombudsman.ie).

## 10.0 COMPLAINTS LOGS

Complaints logs are in place in all areas of the Services.

*When making an entry in the complaints log the following guidelines apply.*

- Record all complaints made by a service user or his/her family/representative.
- Only complaints made by service users or their families/representatives should be recorded complaints by staff members should not be logged but made directly to the manager
- Full details of all steps taken to resolve the issue must be recorded
- An e-mail should be sent to the relevant Senior Services Manager following every complaint logged.
- Where a service user or their family/representative is not happy to deal with an issue/complaint informally the formal complaints procedure should be explained to him/her and advice and assistance given to complete the form attached to the 'Having Your Say' comments and complaints leaflet.
- Complaints involving allegations of abuse should not be entered in the Complaints Log, Such reports should be recorded on the *Safeguarding Referral Form*.
- The person who receives the complaint should follow-up to ensure that the relevant action is taken to resolve the issue.

## 11.0 STATISTICAL RETURNS TO THE H.S.E.

The Chief Executive has oversight of all complaints.

On the first week in January and the first week in July of each year, the manager of each area will send a copy of all entries in the Complaints Log for the previous six months to the Administrator/Quality & Standards Manager who will forward all information to the Chief Executive.

The chief executive will supply complaints statistics are required to the H.S.E twice yearly

## 11.0 COMPLAINTS THAT ARE NOT COVERED BY THIS PROCEDURE

- **Concerns in relation to abuse:**

This complaints procedure is superseded at all times by the procedures for managing allegations of abuse i.e. *Safeguarding Vulnerable Persons at Risk of Abuse* and *Trust*

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*in Care (HR-28)* the procedure for managing allegations of abuse against staff members.

Complaints or concerns regarding the care and treatment of any vulnerable person receiving residential care in a HSE or HSE funded facility such as Carriglea Cáirde Services, can report the concern to the Confidential Recipient, Ms. Leigh Gath. The contact details of the Confidential Recipient are as follows:

Ms. Leigh Gath, Confidential Recipient for Vulnerable Persons, Training Services Centre, Dooradoyle, Limerick. LoCall 1890 100014 Mobile: 087-6657269 E-mail. leigh.gath@crhealth.ie.

- **Complaints that are subject to legal proceedings:**  
Any matter which is or has been the subject of legal proceedings cannot be dealt with under this complaints procedure.
- **Complaints in relation to the Disability Act 2005.**  
Complaints relating to Part 2 of the Disability Act 2005 (pertaining to assessment of need) do not fall within this Complaints Policy and are to be dealt with under the complaints procedures specific to the Disability Act. However Complaints relating to Part 3 of the Disability Act 2005 – Access to Buildings and Services and Sectoral Plans – are covered by this Complaints Policy
- **Matters under investigation by An Garda Síochána.**  
Any matter that could prejudice an investigation being undertaken by An Garda Síochána cannot be dealt with under this complaints procedure.
- **Complaints in relation to clinical judgement.**  
The Health Act 2004 defines Clinical Judgement as being *“a decision made or opinion formed in connection with the diagnosis, care or treatment of a patient”*.  
  
Any issues in relation to clinical judgement should be referred to the relevant senior manager or to the Chief Executive.
- **Complaints in relation Human Resources.**  
This procedure does not cover any matter relating to or affecting the terms or conditions of a contract of employment. Any complaint that relates to a staff member’s terms and conditions of employment falls within the scope of **Carriglea Cáirde Services Grievance Procedures** (see *HR-12 Grievance and Disciplinary Procedures*) and must be managed through that process.
- **Complaints in relation to bullying and harassment made by staff against staff.**  
Such complaints must be managed under the procedures outlined in the policy and procedure on *Dignity at Work HR-07*
- **Freedom of Information Appeals.**

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Appeals in relation to decisions taken by the FOI Decision-Makers must be dealt with through the Internal Appeals process or by appeal to the Freedom of Information Commissioner (*See policy & Procedure on Information Governance – Confidentiality, Data Protection and Freedom of Information*).

- **Complaints in relation to breaches of Data Protection rights.**

Refer to the Data Protection Commissioner (*See policy & Procedure on Information Governance Confidentiality, Data Protection and Freedom of Information*).

- **Complaints being dealt with through other complaints procedures established under legislation.**

Any matter that has or is being brought before any other complaints procedure established under an enactment of legislation.

- **Anonymous Complaints**

With the exception only of complaints which refer to the abuse of a service user Carriglea Cáirde Services will not investigate anonymous complaints made against any member of staff. If the complaint is made by phone or in person, the member of staff being spoken to should encourage the person to provide a name and contact details.

All anonymous complaints, both written and verbal, should be documented, noted in the *Complaints Log* and brought to the attention of the relevant manager for a decision as to whether quality improvements are required on the basis of the complaint.

If an anonymous complaint 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 member

Line Managers and Senior Services Managers are responsible for identifying trends in any anonymous complaints within his/her area of responsibility and to provide this information to the Chief Executive.

- **Confidential Complaints**

If a person makes a complaint in confidence, his/her identity will only be known to the recipient of the complaint and the Complaints Officer. If the investigation of the complaint requires the identity of the person who made the complaint to be disclosed, his/her consent should be obtained. The person who made the complaint must be informed that failure to disclose his/her identity may hinder a full and proper investigation of the complaint being carried out.

- **Vexatious or Malicious Complaints**

Complaints that are believed to be vexatious, malicious or frivolous will not be investigated.

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## 12.0 COMPLAINTS OFFICERS AND REVIEW OFFICERS

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[mary.mcgrath@carrigleaservices.com](mailto:mary.mcgrath@carrigleaservices.com)

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