



Oifig an Cheannaire Oibríochtaí,
Na Seirbhísí Míchumais/An Rannán Cúram Sóisialta,
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13th April 2023

Deputy Holly Cairns,
Dail Eireann,
Leinster House,
Kildare Street,
Dublin 2.
E-mail: holly.cairns@oireachtas.ie

Dear Deputy Cairns,

The Health Service Executive has been requested to reply directly to you in the context of the following parliamentary question, which was submitted to this department for response.

PQ: 14868/23

To ask the Minister for Children; Equality; Disability; Integration and Youth if he will clarify the requirements of disability service providers to have complaints procedures in place; and if he will make a statement on the matter.

HSE Response

Within the Disability Services, voluntary service provider agencies provide the majority of services in partnership with and on behalf of the Health Service Executive.

The HSE is providing funding to over 419 organisations through over 1,045 service arrangements throughout the country.

The HSE has established a formal and robust Governance Framework to cover funding relationships with all Non-Statutory Agencies that are contracted to provide services on behalf of the HSE. This includes voluntary organisations funded under Section 38 and Section 39 of the Health Act. The framework was introduced in order to implement the legislative provisions of the Health Act, 2004 and to reflect the requirements for public accountability whereby the HSE is legally obliged to account for all public expenditure on health and personal social services and to contractually underpin the grant-funding provided. All funding arrangements with non-statutory agencies are formalised by complying with this Governance Framework which has two different components:

- Part 1 - A Service Arrangement that is signed every 1 to 3 years by both parties and sets out the legal requirements that the agency must comply with to receive funding for the provision of services.
- Part 2 – A Set of 10 Schedules which must be completed and signed by the Agency and the HSE which sets out the detail of the service and the exact funding that the HSE is providing for the delivery of this service. This Set of Schedules also identifies the quality standards and best practice guidelines to be adhered to in the provision all services, along with process for managing complaints in relation to service provision.



The Part 2 Service Arrangement /Grant Aid agreement is completed every year for every separate service/ service arrangement with every organisation providing services funded by the HSE. The completion of same involves collaboration and dialogue between the HSE and the Service Provider and involves agreement on anticipated outcomes that the service will deliver, agreed performance management requirements and a reporting timetable regarding reports and meetings. This level of performance monitoring will depend on the type of service, the level of functions and level of funding provided to the organisation.

Sections 38 and 39 of the Health Act 2004 legally underpin (i) the provision of services by Non-Statutory Providers on behalf of the HSE (Section 38) and (ii) the provision of services similar or ancillary to a service that the HSE may provide (Section 39).

The Governance Framework incorporates national standardised documentation, and guidance documents. The Service Level Agreement is subject to regular reviews in accordance with required time frames.

Part 1 of the Service Arrangement states that

“The Provider will maintain a complaints policy and procedure which will reflect, and (where appropriate) comply 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)) and the Health Service Executive policy and procedures on complaints entitled Your Service, Your Say and any amendments or revisions thereto”.

Appendix 1 provides more information regarding reference to the obligations of Services Providers in the Part 1 Service Arrangements regarding Complaints.

Schedule 8 of the Part 2 Service Arrangement outlines in more detail the Service Providers’ obligations and reporting requirements in relation to Complaints.

The Provider is required to submit returns on an agreed template to the National Complaints Governance and Learning Team on a quarterly basis for the periods of January-March, April-June, July-September, October-December. Any queries arising from the templates will be followed up by the National Complaints Governance and Learning Team.

The National Complaints Governance and Learning Team will liaise directly with the Providers to ensure that statistics are submitted on time and a reminder will issue one month prior to the deadline for submission.

I also a sample Part 2 Service Arrangement which is a template S 39 Part 2 Service Arrangement. I refer you in particular, to pages 42 to 44 Schedule 8 for your information.

Disability Residential Centres

In addition to the above, it is also important to mention that Service Providers, who are Registered Providers of Disability Residential Centres, are subject to regular inspection and monitoring by the Health Information and Quality Authority (HIQA)

HIQA use S.I. No. 367/2013 - Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 and the National Standards for Residential Services for Children and Adults with Disabilities (14 May 2013) to monitor and inspect residential services.

With regard to Complaints, Service Providers must comply with the National Standards and with the Regulations.

Please see Appendix 2 for more information regarding Regulation 34 Complaints Procedure of S.I. No. 367/2013 - Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013.

The HIQA website will also provide more information regarding the standards and expectations required of Service Providers to ensure compliance in all aspects of service provision including Complaints management. The link to the website is provided below.



<https://www.hiqa.ie/areas-we-work/disability-services>

The HSE Your Service Your Say Policy.

As mentioned in the Governance Framework for Service Providers outlined above, in accordance with Section 46, Part 9 of the Health Act 2004, anyone who is being or was provided with a health or social service by the HSE or Service Provider or anyone seeking provision of such services, is entitled to make a complaint.

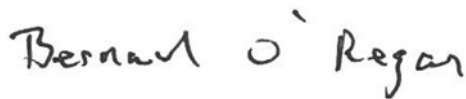
The Your Service Your Say, the Management of Service User Feedback for Comments, Compliments and Complaints Policy 2017 is designed to be flexible, accessible and responsive to the needs of all service users and ensures that all feedback is acknowledged, reviewed and responded to within the agreed policy and legislative timeframes.

It is the right of service users to comment, compliment or complain about any of the services provided by the HSE or its Service Providers. Responding effectively to comments, compliments and complaints received and learning from them is key to providing high quality customer focused services. Best practice identifies what service users want when they provide feedback and the HSE has used this information to build on and enable a system which will meet these requirements.

Please see the link below for further information.

<https://www.hse.ie/eng/about/who/complaints/ysysguidance/ysys-feedback-policy-guidance.pdf>

Yours sincerely,



**Mr Bernard O'Regan,
Head of Operations - Disability Services,
Community Operations**



Appendix 1

Section 39 Part 1 Service Arrangement between the Service Provider and the HSE

Extract taken from page 16

Point 7.5

“7.5. The Executive and the Provider are committed to protecting Service Users, whose safety is of paramount importance. The Provider shall ensure that Service Users are aware of the right to be free from abuse (mental, physical, emotional, sexual and financial). The Executive acknowledges that the degree to which Service Users may be made aware of this right will vary depending upon the capacity of the Service User concerned. The Provider shall also establish and maintain a formal protection from abuse policy and complaints procedure that is accessible to all Service Users, their advocates and carers”.

Extract taken from page 39

Point 21.1 to 21.6

- “21.1 The Provider will maintain a complaints policy and procedure which will reflect, and (where appropriate) comply 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)) and the Health Service Executive policy and procedures on complaints entitled Your Service, Your Say and any amendments or revisions thereto.*
- 21.2 If, at the commencement of this Arrangement, the Provider does not have a complaints policy and procedure in place in accordance with Clause 21.1, the Provider undertakes to establish such a policy and procedure immediately.*
- 21.3 The Provider shall submit a copy of its complaints policy and procedure to the Executive for approval. The Executive may direct the Provider to amend its complaints policy and procedure in such manner as the Executive sees fit, or alternatively to adopt the Executive’s complaints policy and procedure and the Provider shall so amend or adopt the complaints policy and procedure to meet the Executive’s requirements within the timescale as may be specified by the Executive.*
- 21.4 The provider must use the NIMS as the primary ICT system to report and manage Incidents in accordance with the Executives National Incident Management Policy*
- 21.5 The Provider agrees to adhere to the complaints procedure maintained or adopted pursuant to this Clause 21 and to co-operate fully in any review of a recommendation made by a complaints officer (within the meaning of the Health Act 2004) following investigation of a complaint against the Provider.*
- 21.6 Where the Provider has established a complaints policy and procedure by agreement with the Executive, the Provider shall provide the Executive with a general report in each year on complaints received by the Provider at a time and in a manner as the Executive may specify, indicating-*
- (a) the total number of complaints received,*
 - (b) the nature of the complaints,*
 - (c) the number of complaints resolved by informal means, and*
 - (d) the outcome of any investigation into the complaints”.*



Appendix 2

Extract from S.I. No. 367/2013 - Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013.

“Complaints procedure”

“34. (1) The registered provider shall provide an effective complaints procedure for residents which is in an accessible and age-appropriate format and includes an appeals procedure, and shall—

(a) ensure that the procedure is appropriate to the needs of residents in line with each resident’s age and the nature of his or her disability;

(b) make each resident and their family aware of the complaints procedure as soon as is practicable after admission;

(c) ensure the resident has access to advocacy services for the purposes of making a complaint; and

(d) display a copy of the complaints procedure in a prominent position in the designated centre.

(2) The registered provider shall ensure that—

(a) a person who is not involved in the matters the subject of complaint is nominated to deal with complaints by or on behalf of residents;

(b) all complaints are investigated promptly;

(c) complainants are assisted to understand the complaints procedure;

(d) the complainant is informed promptly of the outcome of his or her complaint and details of the appeals process;

(e) any measures required for improvement in response to a complaint are put in place; and

(f) the nominated person maintains a record of all complaints including details of any investigation into a complaint, outcome of a complaint, any action taken on foot of a complaint and whether or not the resident was satisfied.

(3) The registered provider shall nominate a person, other than the person nominated in paragraph 2(a), to be available to residents to ensure that:

(a) all complaints are appropriately responded to; and

(b) the person nominated under paragraph (2)(a) maintains the records specified under paragraph (2)(f).

(4) The registered provider shall ensure that any resident who has made a complaint is not adversely affected by reason of the complaint having been made”.

