Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

HSE Board Briefing Template

Subject: Impact and Learning in Community Operations from the Confidential Recipient

Submitted for meeting on: 30th September 2022

Name & title of author: Yvonne O Neill National Director Community Operations

Why is this information being brought to the Boards attention? For discussion.

Is there an action by the Board required? No.

This paper relates to;

- The development and implementing of an effective Corporate Governance Framework, incorporating clinical governance and a performance management and accountability system;
- Developing a plan for building public trust and confidence in the HSE and the wider health service;

1. Executive summary

The HSE appointed a Confidential Recipient (CR) for the first time in 2014 reporting to the then HSE Director General under day-to-day operational management of the former National Director Quality Assurance & Verification – now incorporated into the Office of the Chief Clinical Officer. The CR operates to a protocol (Appendix 1) for handling concerns raised by any individual in relation to the provision of services to people with a disability. Since its establishment the office has expanded its remit to take confidential receipt of concerns from people regarding older persons and mental health services in addition to disability services. This was also helpfully expanded to provide for reporting cases that arise in Acute Hospitals as a "no wrong door" approach but not formally comprehended in the CR role.

The appointment for the first CR was announced at the time as follows "The Director General of the HSE, Tony O'Brien, has appointed Leigh Gath, a well-known disability advocate, as a "Confidential Recipient", independent of the HSE, to whom anyone can make a complaint or raise concerns about the care and treatment of any vulnerable person receiving residential care in a HSE or HSE funded facility"

The CR has been operating since 2015 and at Q4 2021, 97.5% of the 1216 cases received had been successfully closed. Dominant themes in cases included staff behaviour, access to services, placements and eligibility. There are a range of learning points from these cases which can improve how disability and other services are funded, configured and provided to improved person centeredness and these are outlined in the conclusions per recommendations from the outgoing Confidential Recipient

2. Background – Purpose and Operation

A. Establishment and Purpose

In 2012, 450 people with disabilities held a 24 hour protest following measures taken resulting in reduced provision of personal assistance hours to people with a disability. A delegation met the then Minister for Health and HSE Director General. In the period following on from this protest further details emerged about failures to provide safe, rights based care to people with a disability – including at Aras Attracta. The HSE Director General appointed a Confidential Recipient to enable people with a disability and any other people with concerns to raise these with an independent recipient who could advocate with services on their behalf. The Confidential Recipient appointed was a member of the protest delegation in 2012 and came with extensive experience of disability rights activism and advocacy in a number of jurisdiction.

B. Operation Per Protocol

Concerns received by the CR are routed to the relevant CHO Chief Officer who is required to respond to the CR within 15 days. Should a response not be received the CR may escalate individual cases to the National Director Community Operations. The 15 days' response time should include either an interim or final outcome. In most instances this is interim and the case remains open while resolution is ongoing. In 2021 for example, 36% of cases were closed within one month, 68% within three months – the remaining 32% taking three months or more to resolve. The pathway for referral management is below at Fig 1 (and in larger print in Appendix 1).

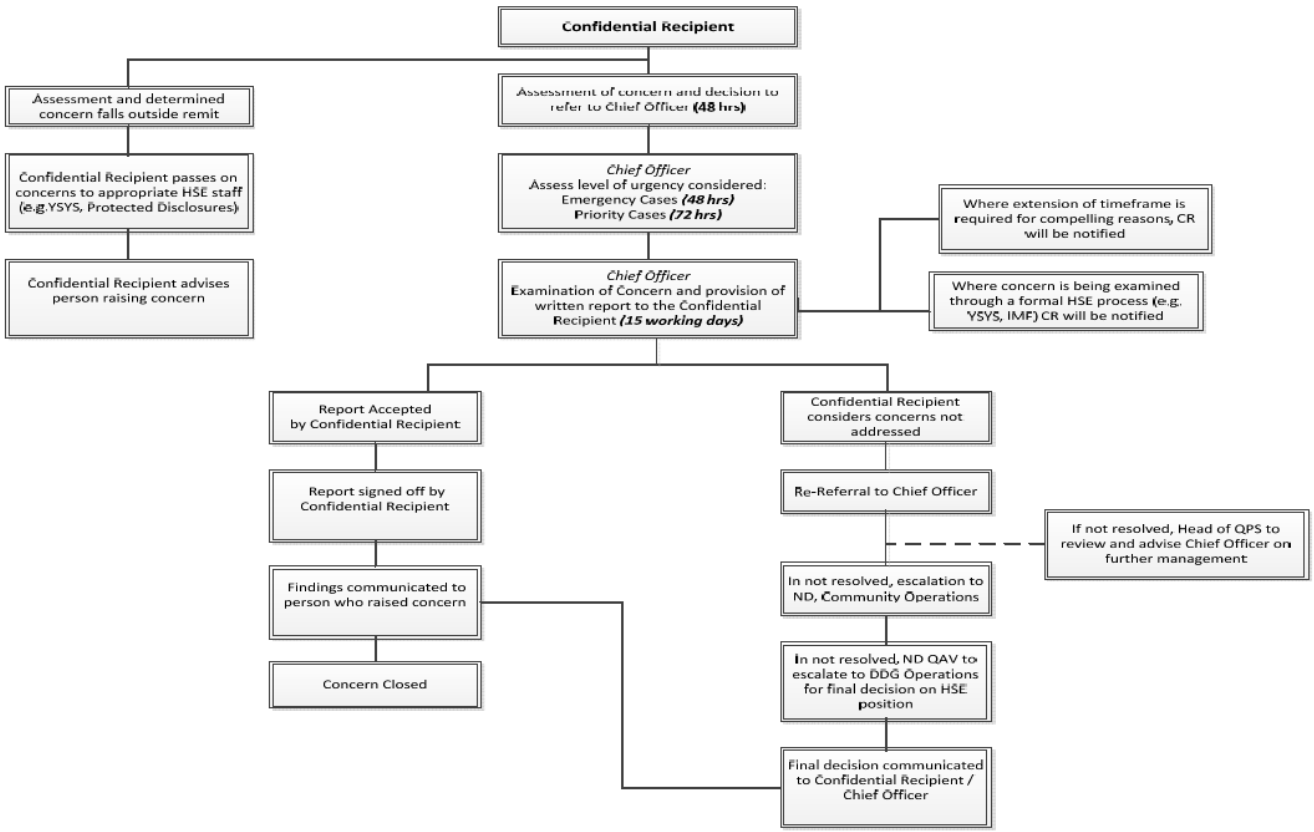

Fig 1 Pathway for Management of Concerns Received by CR

3. Activity

A. Community Operations

Between the establishment of the CR office and year end 2021 there had been 1216 cases opened across all CHOs (Table 1). At Q4 2021 the number of open cases was 31 (19 of which were received during that quarter) meaning 97.5% of cases had been closed at that time.

Table 1 Number of CR referrals 2015 to 2021

Number of CR Cases by Year by CHO								
CHO	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**Total**
CHO1	9	15	17	17	8	9	10	*85*
CHO2	16	34	20	12	13	21	10	*126*
CHO3	8	16	17	20	11	11	16	*99*
CHO4	13	46	28	38	23	20	20	*188*
CHO5	9	25	18	20	22	22	28	*144*
CHO6	9	26	11	19	8	11	6	*90*
CHO7	26	20	30	31	14	20	23	*164*
CHO8	19	18	29	25	36	25	23	*175*
CHO9	10	20	26	24	20	26	19	*145*
Total	119	220	196	206	155	165	155	**1216**

B. Acute Operations

While the remit of the CR office does not currently comprehend Acute Operations the CR was in receipt of concerns regarding hospital care and operates a “no wrong door” approach. A small number of concerns are received by the CR each year and these are routed to the National Director Acute Operations – but cases are not created and held open as in the case of Community Operations. In 2021, the CR received 38 concerns pertaining to Acute Hospitals.

C. Thematic Analysis of Cases

The Confidential Recipient categorises cases as either care provision or safeguarding concerns, and further indicates themes of concerns under each category. Below are the aggregate data illustrating the numbers of cases in each category. These figures are published annually by the CR in their annual report and the latest annual report (2021) is at Appendix 2 for reference.

Number of Cases by Category & Theme									
Category	Theme	2015	2016	2017	2018	2019	2020	2021	Total
Care Placement / Planning And arrangements	Client Placement / Planning	26	68	22	34	22	73	51	296
	Level of Staff to Support client	12	18	5	30	29	19	19	132
	Care Planning	9	0	0	0	0	0	0	9
	Access to Equipment	5	6	5	10	8	8	10	52
	Financial charges	3	4	5	3	3	0	1	19
	Transport	2	0	3	0	0	0	0	5
	Accommodation	0	15	27	11	2	8	9	72
	Respite	0	10	9	19	22	4	4	68
	Transfer from child to adult services	0	5	0	0	1	2	0	8
	Other	8	53	30	23	0	0	2	116
	Sub Total	65	179	106	130	87	114	96	777
Safeguarding	Alleged abuse	43	31	13	19	27	16	10	159
	Safety of Care	6	2	3	11	6	7	9	44
	Staff behaviour	2	4	28	20	15	7	25	101
	Family issues	3	4	5	22	20	21	8	83
	Care issues	0	0	41	0	0	0	0	41
	Day Service	0	0	0	4	0	0	0	4
	Covid	0	0	0	0	0	0	7	7
	Sub Total	54	41	90	76	68	51	59	439
Total		**119**	**220**	**196**	**206**	**155**	**165**	**155**	**1216**

4. Impact and Learning – Community Operations Perspective

Staff Behaviour

Our values and behaviours feature as a theme year-on-year. In some concerns the simple behaviours that any member of the public would expect were sadly absent. This is particularly difficult for some people whose disability means they are anxious about their interaction with our staff and services to begin with. In one case a service user [redacted].

[redacted] While such very poor experiences may be the exception they have a very significant impact on an individual level.

Being Person Centred

Eligibility recurs in the concerns received by the CR annually. In an example of an eligibility case a service user [redacted] It is clearly preferable for intervention, such as the above, not to be necessary for the provision of basic hygienic products to those in genuine need.

Being person centred is also about enabling each person with a disability to live a full and meaningful life in the community, with due regard to their will and preference. A repeating issue with access to personal assistance is the lack of portability of services. This means that young people with disabilities encounter problems when they want to move for university or work. Their personal assistance hours being funded in the CHO in which they live – but not following them to the CHO they want to move to for study or work. This is one example of how the structures of the organisation (geography and speciality) can impact the person centeredness of operations.

Integration across Services & the Lifespan

The referrals to the CR demonstrate how transitions from child to adult to older person's services can negatively impact service users. In addition, adults who require input from more than one care group (disability, primary care, older persons and/or mental health) can have negative experiences because of a lack of integration in service response. Examples of learning from the CR cases include how hours of care are counted and funded differently in disability services (personal assistance hours) and older person's services (home care hours). This has unfortunately meant that some people with a disability who turn 65 have experienced a fragmented response – for example where personal assistance hours can include support out and about in the community, home support hours do not generally include activity outside a person's home. This distinction being an unnecessary challenge for the service user in their daily lives.

Service User Placements

Another year-on-year theme is service user placement. These issues include concerns regarding placement in residential settings when there is a preference for supported community living, and also age or context inappropriate placement. The latter include examples of service users with disabilities placed for long periods in mental health approved centres, or young adults placed in nursing homes.

A number of longstanding cases of this type have been successfully addressed, particularly moving services users from mental health approved centres to more appropriate disability placements in the community. Improvements are required in how services navigate the challenges in providing both supported living placements in the community and residential disability placements which are person centred and age appropriate. Notwithstanding the constraints of the property market and regulatory requirements Community Operations have learned from the CR cases the need for regular communication with service users and their carers providing interim support while permanent placements are awaited.

Safeguarding

CR referrals which indicate a risk of harm to a vulnerable adult are referred to the relevant CHO Safeguarding and Protection Team (SPT). The HSE National Service Plan 2022 (p46) highlighted a current risk whereby the demand on SPTs is growing but the teams themselves have not gown significantly since their establishment in 2015. There is a requirement for safeguarding operations to expand in line with Sláintecare to encompass Community Healthcare Networks (inclusive of Mental Health) and align to Regional Health Areas. Safeguarding operations, and patient safety operations more broadly, will need to be carefully considered as part of RHA design and implementation work.

5. Impact and Learning – Confidential Recipient Perspective

The CR notes that year on year similar concerns emerge which could have been dealt with using a proportionate and case-by-case application of policy and eligibility criteria without added stress for people with disabilities or their families. The case cited under person centeredness above at section 4 being a case in point.

One of the issues which the CR notes has disimproved during their time in office is that people with disabilities who receive supports from HSE funded services have no freedom of movement enjoyed by everyone else. This goes from the very basics of what time they get their supports; the hours they get not allowing for time out of their homes to socialise - to the more significant loss of freedom such as not being able to move to a different area of the country.

The CR frequently cites poor communication as causing unnecessary stress and delay. It is noted by the CR that in a number of examples more timely and effective engagement can advance matters. The CR has noted *"not everyone wants to go to day services and with diesel/petrol being so expensive, it may be a cheaper option to allow the person to use their home as a hub to be supported to do things in their local community. If people could "bank" some care/support hours this would allow them the opportunity occasionally to go for a meal with family or friends"*

Presently, in some CHO Areas, the CR has also expressed concern that letters indicating a decision on funding or service allocation care are often generic and lacking in detail. This means the service user cannot determine why services are being declined, and what options are there for appeal or alternatives.

6. Challenges operating the CR protocol

It has at times been challenging to operate the CR protocol. There have been small number of cases where the CHO & National Director Community Operations differ in their assessment of the adequacy of response to a case with the CR. This can happen, for example, when the duty of the HSE to respect the will and preference of individuals comes into conflict with the duty of the HSE to ensure service user safety. These cases are complex, often emotive and can remain open for prolonged periods of time – or be considered closed by the National Director, but not by the CR. The current CR protocol indicates that the HSE Chief Operations Officer is the final decision maker in such cases. Recourse to the COO for a decision has not however been required to date and is testament to the close collaboration between Community Operations and the CR in challenging circumstances.

7. Conclusions/Suggested Improvements

To date the CR function have enabled;

- An increased awareness and training on the management of concerns including safeguarding concerns.
- Increased responsiveness in dealing with complex issues pertaining to eligibility and placement.
- Increased public awareness, transparency and accountability as it relates to the management of concerns being raised.
- A confidence on the part of people to come forward and report concerns regards services.
- Increased operation of the "No Decision About Me, Without Me" principle in practice.
- The CR office and role has advocated effectively for a change in societal culture, particularly as it relates to people with disability.

Community Operations Improvement Programme

Since the establishment of the CR Office the data contained in the annual reports has been integrated in the Community Operations and CHO planning and performance management. CR cases are a standing agenda item on Chief Officer Performance engagements. Programmes of reform and improvement are underway to address the themes evidenced in the CR cases year on year. These include the de-congregation of institutional disability services, establishment of structures to transition young people inappropriately placed in nursing homes and to

prevent inappropriate admissions establishment of structures to transition young people inappropriately placed in nursing homes and to prevent inappropriate admissions, and changes to the operation of placement forums and review of the process for assessment of need. There is however much more to do and priorities include the review of the powered /assisted mobility policy and improvements to the management of transitions of care, and portability of services. Most importantly Community Operations will include in its 2023 programme of work a renewed drive to ensure our behaviours match the statement of intent behind objective 5 of our Corporate Plan (2021 -2024) – to reimagine disability services, to be the most responsive, person-centred model achievable with greater flexibility and choice for the service user. This includes increased investment in personalised support services in recent years and the imminent establishment of a working group to develop agreed definitions of personal assistant services and consistent allocations processes across CHOs, in addition to portability across CHOs. This includes increased investment in personalised support services in recent years and the imminent establishment of a working group to develop agreed definitions of personal assistant services and consistent allocation processes across CHOs, in addition to portability across CHOs.

8. Recommendations

The following recommendations are being made by Community Operations which the Board is asked to endorse.

- The terms of reference for placement and eligibility committee in CHOs will be reviewed and the incoming Confidential Recipient will play an active role in this process.
- A meaningful disability service user engagement strategy will be developed facilitating service user involvement in service design, with sufficient agility to gather the view of people with a range of disabilities
- Building on the success of the inpatient acute hospital patient experience survey jointly administered by HIQA, the HSE and Department of Health – Community Operations will seek to establish an equivalent for disability services and will engage with HIQA on this

The following recommendation is made by the current CR to the Board for their consideration.

- The relocation of the reporting line of the CR from directly to the CEO to the National Clinical Director of Patient Safety should be reconsidered to maintain independence of the role.