

7.4.6 Process upon completion of the Pre-Investigation

Where the Complaints Officer determines that the complaint does not meet the criteria detailed in 7.4.1 to 7.4.5, the 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 alternative complaint processes are appropriate for the management of such complaints, the Complaints Officer will either investigate the complaint using the alternative process or will refer the complaint directly to the appropriate health service personnel for management under the relevant policy, procedure or guideline. The complainant is to be informed of where the complaint is being referred to and why. Alternatively, the Complaints Officer will inform the complainant of the relevant channels through which the complainant may direct their complaint.

Table 1 and 2 detail the appropriate channels through which complaints must be managed.

Table 1: Complaints that may be managed using the processes outlined in this Procedure Manual.

Details of Complaint/Allegation	Policy, Procedure or Guideline to be followed
Complaints that fall within the provision of Part 9 of the Health Act 2004	
Complaints about an action of the HSE or Service Provider that fall within the provisions of Part 9 of the Health Act 2004	Section 7 - 10 of the HSE Policy and Procedures for the Management Consumer Feedback in the HSE
Complaints in relation to access to services under Part 3 of the Disability Act 2005 (Access)	Section 7 - 10 of the HSE Policy and Procedures for the Management of Consumer Feedback inn the HSE
Complaints that <u>do not</u> fall within the provision of Part 9 of the Health Act 2004	
Complaints in relation to entitlements to Services under Part 2 of the Disability Act 2005 (Assessment)	Section 11 of this Standard Operational Procedure (SOP)
Complaints in relation to the decision of a Complaints Officer under Part 2 of the Disability Act 2005	Section 11 of this SOP
Complaints in relation to Clinical Judgement	Section 11 of this SOP
Anonymous Complaints	Section 11 of this SOP
Vexatious or Malicious Complaints	Section 11 of this SOP

Table 2: Complaints that do not fall within the remit of this Procedure Manual and must be referred to the appropriate personnel to be addressed using the appropriate Policy, Procedure, Guidelines or Legislation as detailed in this table.

Details of Complaint/Allegation	Policy, Procedure, Guideline or legislation to be followed
Complaints that do not fall within the remit of this Procedure Manual	
Allegations of abuse of a child	Refer to the Line Manager / Child Care Manager to deal with the complaint in line with the: <i>Children First</i> , National Guidelines for the Protection and Welfare of Children, Sept 1999.
Allegations of abuse made against staff members Professional Misconduct and Fitness to Practice Issues. Complaints by staff of any inappropriate behaviour of other staff at work	Refer to Line Manager/ Head of Discipline to deal with complaint in line with some or all of the following: <ul style="list-style-type: none"> • <i>Trust in Care</i>, Policy for Health Service Employers on upholding the Dignity and Welfare of Patients/Clients and the Procedure for managing allegations of abuse against staff members, May 2005 • <i>Grievance and Disciplinary Procedures for the Health Service</i> May 2004 • <i>Dignity at Work Policy for Health Services</i> May 2004 • Health and Social Care Professionals Act 2005 • Medical Practitioners Act 1978 • Nurses Act 1985
Complaints about entitlements under Part 3, Chapter 9 of the Social Welfare (Consolidation) Act 2005	Refer to Health Service Executive Appeals Process/Social Welfare Appeals Office in relation to Basic Payments and Supplements
Complaints against the HR/Recruitment process	Refer to Line Manager/ Head of Discipline/Human Resources to deal with complaint in line with some or all of the following: <ul style="list-style-type: none"> • <i>Dignity at Work Policy for Health Services</i> 2004 • <i>Grievance and Disciplinary Procedures for the Health Service</i> 2004 • HSE Recruitment SOP R2002
Complaints about bullying and harassment made against staff	Refer to Line Manager/ Head of Discipline/ Human Resources to deal with complaint in line with some or all of the following: <ul style="list-style-type: none"> • <i>Trust in Care Policy</i>, 2005 • <i>Dignity at Work Policy for Health Services</i> 2004 • <i>Grievance and Disciplinary Procedures for the Health Service</i> 2004

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Details of Complaint/Allegation	Policy, Procedure, Guideline or legislation to be followed
Complaints that do not fall within the remit of this Procedure Manual	
Complaints in relation to decisions of Freedom of Information internal reviewers	Refer to Office of the Information Commissioner to deal with the complaint in line with the Freedom of Information Act 1997 and 2003 info@oic.ie
Complaints in relation to breaches of Data Protection Rights	Refer to Data Protection Commissioner to deal with the complaint in line with the Data Protection Act 1988 and 2003 info@dataprotection.ie
Complaints in relation to Environmental Issues	Refer to Local Environmental Health Office to deal with the complaint in line with some or all of the following: <ul style="list-style-type: none"> • Food Safety Authority of Ireland Act 1998 • European Communities (Hygiene of Foodstuffs) Regulations 2006 • Food Hygiene Regulations 1950 - 1989 • Public Health (Tobacco) Acts 2002 & 2004
Complaints in relation to Nursing Homes (Private)	Refer to Local Health Office to deal with the complaint in line with the Health (Nursing Homes) Act 1993
Pre-School Services	Refer to the Local Health Office/Childcare Manager to deal with the complaint in line with the Childcare (Pre-school Services) Regulations 1996
Elder Abuse	Refer to the General Manager / Manager of Older Persons Services to deal with the complaint in line with: Protecting Our Future. Report of the Working Group on Elder Abuse September 2002 Annual report is produced on it's implementation each year. www.dohc.ie