 <p>Feidhmeannacht na Seirbhíse Sláinte Health Service Executive</p>	<p>HSE Policy for dealing with vexatious complaints</p>	<p>Policy No: 1 Revision No: 0 Page: 1 No of pages: 9 Date: November 2008</p>
<p>Written/Reviewed by: Support staff, National Support Unit</p>	<p>Title:</p>	
<p>Approved by: Mary Culliton</p>	<p>Title: Head of Consumer Affairs</p>	


1.0 Purpose

It is the policy of HSE that all complaints must be appropriately responded to, however there are times when there is nothing further which can reasonably be done to assist the complainant or to rectify a real or perceived problem.

In the course of dealing with complaints HSE staff inevitably have contact with a small number of complainants who absorb a disproportionate amount of HSE resources.

The aim of this policy is to identify situations where the complaint might be considered to be vexatious and to suggest ways of responding to these situations.

This policy gives clear guidelines where a complaint can be classed as vexatious and outlines options staff have for dealing with these complaints. This policy should only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints through the HSE complaints procedure. Judgement and discretion must be used in applying the criteria to identify potential vexatious complainants and in deciding on action to be taken in specific cases. This policy should only be implemented following careful consideration by the relevant Local Health Manager/ Hospital Network Manager or deputy, and with the consultation with the relevant Area Manager for Consumer Affairs.

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2.0 Scope


This policy applies to all HSE employees.

3.0 Definition of a Vexatious Complaint


Complainants (and/or anyone acting on their behalf) may be deemed to be vexatious where previous or current contact with them shows that they meet two or more of the following criteria:

Where complainants:

1. Persist in pursuing a complaint and the HSE complaints procedure has been fully and properly implemented and exhausted;
2. Persistently change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint is being addressed. Care must be taken, however, not to disregard new issues which are significantly different from the original complaint as they need to be addressed as separate complaints;
3. Are repeatedly unwilling to accept documented evidence given as being factual or deny receipt of adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed;
4. Repeatedly do not clearly identify the precise issues which they wish to have investigated, despite reasonable efforts of HSE to help them specify their concerns, and/or where the concerns identified are not within the remit of HSE to investigate;

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5. Regularly focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. Determining what a trivial matter is can be subjective therefore careful judgement must be used in applying this criterion;
6. Have threatened or used physical violence towards staff at any time – this will, in itself, cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will, thereafter only be continued through written communication. All such incidents must be documented;
7. Have in the course of addressing a registered complaint, had an excessive number of contacts with HSE, placing unreasonable demands on staff. For the purposes of determining an excessive number, a contact may be in person, by telephone, letter, e-mail or fax. Discretion must be used in determining the precise number of “excessive contacts” applicable under this section, using judgement based on the specific circumstances of each individual case;
8. Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with the complaint. Staff must recognise that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. All instances of harassment, abusive or verbally aggressive behaviour must be documented.
9. Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved;

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10. Display unreasonable demands or expectations and fail to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).


4.0 Process

In determining the options for dealing with vexatious complaints it is important to ensure that:

1. The complaints procedure has been correctly followed so far as possible and that no material element of a complaint has been overlooked or inadequately addressed.
2. Staff dealing with complaints appreciate that even habitual or vexatious complaints may have aspects which contain some substance.

Where complainants have been identified as vexatious in accordance with the criteria identified above, the Local Health Manager, Hospital Network Manager or deputy will determine what action needs to be taken. The Local Health Manager, Hospital Network Manager or deputy will implement such action and will notify complainants in writing of the reasons why they have been classified as vexatious and the action to be taken. This notification will be copied for the information of others involved, e.g. complaints officer, Area Manager for Consumer Affairs. A record must be kept for future reference of the reasons why a complainant has been classified as vexatious.


Local Health Manager, Hospital Network Manager or deputy may decide to deal with complaints in one of more of the following ways:

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- Try to resolve the matters, before invoking this policy, by drawing up a signed “agreement” with the complainant which sets out a code of behaviour for the parties involved if HSE is to continue processing the complaint. If these terms are contravened, consideration would then be given to implementing other action as indicated in this section.
- Decline contact with the complainant either in person, by telephone, by fax, by letter or any combination of these, provided that one form of contact is maintained.
- Notify the complainant in writing that HSE has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should also be notified that the correspondence is at an end and that further letters received will be acknowledged but not answered.
- Inform the complainant that in extreme circumstances HSE reserves the right to pass unreasonable or vexatious complaints to its solicitors/report to Gardai.
- Temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice.

If found to be vexatious, HSE 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 or the Ombudsman for Children.

If a complaint is found to be vexatious, there will be no record of the complaint in the file of the staff member/service about which the complaint was made.

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4.0 Withdrawing 'Vexatious' status


Once complainant has been deemed vexatious there needs to be a mechanism for withdrawing this status at a later date if, for example, complainant subsequently demonstrates a more reasonable approach or he/she submits a further complaint for which normal complaints procedures would appear appropriate. Staff should previously have used discretion in recommending 'vexatious' status at the outset and discretion should be similarly used in recommending that this status be withdrawn when appropriate. Where this appears to be the case discussion will be held with the relevant Local Health Manager, Hospital Network Manager or deputy. Subject to their approval normal contact with the complainant and application of HSE complaints procedure will then be resumed.

5.0 Frequency of Review of SOP

This Policy will be reviewed every twelve months thereafter.

6.0 Method used to Review Operation of the Policy

Audit tools, check lists and data collected on a routine basis to demonstrate level of performance.

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Guidance on Dealing with Problem Callers

Definitions

Calls can be made:

- By telephone
- By e-mail
- By fax
- In person

Inappropriate words:


Include all swear words, racist or sexist language, or words used to abuse individuals.

Inappropriate behaviour:

Includes making an unacceptable number of calls during any defined period, e.g. more than once a day without offering any new relevant information, calling repeatedly when already advised the person they are seeking is absent, calling or coming to the office when advised in writing that no further contact should be made, calling or coming to the office when advised in writing that no further comment will be made, coming to the office when specifically advised not to do so.

Procedure

After each call make a brief note of the date and time and the type of language/behaviour. Retain a copy for your own records. If a caller is persistent, i.e. more than 3 calls, bring this to the attention of your manager.


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Abusive callers

1. When a caller first uses language that is unacceptable inform them this is not acceptable and ask them to stop.
2. If the caller continues remind them that you have asked them to stop and that you will disconnect the call if he/she continues.
3. If the caller continues advise that you intend to disconnect and that they must not call again unless they cease using unacceptable language.
4. If the caller continues – disconnect.
5. If the caller calls back repeat Step 2 and inform caller that his/her behaviour could be regarded as abusive and it is HSE policy not to prolong telephone calls that the staff member deems abusive. Repeat Step 4.

Persistent Callers

1. Advise the caller that you are aware that he/she has made previous calls.
2. Advise the caller that the issue he/she is seeking to resolve is being addressed / has been answered to the best of our ability and that nothing further can be done.
3. Advise the caller that you are unable to spend any further time discussing the matter and that you therefore intend to disconnect the call.

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4. Advise the caller that you are now disconnecting the call and that he/she should not call again unless there is a new matter they wish to discuss.
5. Disconnect the call.
6. If the caller calls back repeat Step 3 and advise the caller that his/her behaviour could be regarded as harassment and there is a policy in place in the HSE to protect staff against harassment. Repeat Steps 4 and 5.
7. If the caller calls back again repeat Step 4 and advise the caller that you intend to report the matter to an appropriate manager. Repeat Step 5.

Vexatious Callers

1. Advise the caller that you are aware that he/she has been advised that the matter he/she is raising can not be discussed with him/her.
 2. Advise the caller that you intend to disconnect his/her call and that he/she must not call back unless there is a new matter they wish to discuss.
 3. Disconnect the call.
 4. If the caller calls back repeat Step 2 and inform the caller that his/her behaviour could be regarded as harassment and there is a policy in place in the HSE to protect staff against harassment. Repeat Step 3.
- If the caller calls back again repeat Step 4 and advise the caller that you intend to report the matter to an appropriate manager. Repeat Step 3.