



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

THE MANAGEMENT OF REQUEST FOR REVIEW AND ALLEGATION UNDER
THE CODE OF PRACTICE

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Background

With effect from the 1st April 2005 recruitment for appointments to positions in the HSE is subject to the provisions of the Public Service Management (Recruitment and Appointments) Act, 2004 (the Act) and is regulated by the Commission for Public Service Appointments (CPSA). The Recruitment Licences and Codes of Practice issued by the CPSA require the HSE to advise candidates of the existence of the appeal processes contained in the Codes of Practice and to manage candidates' requests for review and allegations of a breach of the Code of Practice in line with Section 7 and Section 8 of the Codes of Practice.

Policy Statement

The HSE will comply with the requirements and conditions set down in the Section 7 and Section 8 of the relevant Codes of Practice in respect of its management of requests for review and appeals.

1.0 Purpose

The purpose of this policy and procedures document is to ensure that HSE managers who are involved in the recruitment and selection processes are fully aware of the review/appeals process under Section 7 and Section 8 as set down in the Codes of Practice, that the reviews are conducted in line with fair procedures and that the investigations and subsequent reports are of a high standard.

2.0 Responsibility

2.1 Information for Candidates

It is the responsibility of the unit advertising a vacancy to ensure that potential applicants are made aware of the Code of Practice and the review/appeal mechanisms contained in Section 7 and Section 8 of the Codes of Practice. This information will be made available to potential applicants via appropriate information on the job specification, recruitment and selection procedures and the Code of Practice information for Candidates which will be posted on the HSE's web site and sent in hard copy to candidates who are supplied with vacancy information in this manner.

2.2 Managerial Responsibilities

It is the responsibility of the Area Recruitment Managers, A/General Manager of Operations National Human Resource Services (NHRS) and Operations Manager National Recruitment Services (NRS) to ensure that those involved in recruitment and selection processes are fully aware of their obligations under the Codes of Practice and are fully aware of the review/appeal procedures outlined in Section 7 and Section 8 of the Codes of Practice and the procedures contained in this document.

It is the responsibility of those carrying out any reviews under Section 7 and Section 8 of the Codes of Practice to comply fully with the standards and procedures set down in the Codes of Practice and the procedures contained in this document.

It is the responsibility of the Recruitment Manager, Policy and Standards to notify the Office of the National Director of Human Resources of any actions that may impact negatively on the HSE complying with its obligations under Section 7 and Section 8 of the Code of Practice.

3.0 Overview of Review/Appeals Procedures Section 7 and Section 8

An overview of the Review/Appeals procedures Section 7 and Section 8 (extract from Code of Practice) are set out in Appendix 1.

4.0 Procedure for processing Reviews and Appeals

4.1 Initial Queries and Responses

- Acknowledge the complaint within **three working days**, and seek candidate's agreement to resolve the matter on an informal basis before making use of the formal process.

- Establish with the candidate if they wish to have the complaint dealt with under Section 7 or Section 8. Clarify with the candidate the exact nature of the complaint/allegation and request them to set out in writing, if they have not already done so, those aspects of the action or decision in relation to his/her candidature that he/she wishes to have reviewed together with any relevant documentation which the complainant feels might support his/her request or allegation. On receipt of this information confirm with the candidate the appropriateness or otherwise of dealing with their complaint under the Code of Practice, and if it is appropriate then confirm under which section the complaint is being dealt with.
- Should the candidate not agree to an informal review the candidate must be informed of the name and position of the person who will carry out the initial formal review and confirm the deadline for completion of the review (the outcome must generally be notified to the candidate **within 20 working days** of receipt of the complaint or request for review).
- Advise the Recruitment Manager, Policy and Standards on receipt of the formal request for review or appeal.

4.2 Managing competitions under appeal

The Initial Reviewer / Decision Arbitrator should make every effort to conclude the review within the timescales set out in the Code of Practice. Compliance with these timescales should ensure that the continuation of the competition is not effected.

Competitions may continue up to the clearance stage while a review is in progress. On completion of the clearances the Recruitment / HR manager should formally decide to either appoint the successful candidate or delay the appointment until the HSE appeal process is completed. The decision should consider, amongst others, the impact of the delay on service delivery and the operation of the relevant unit.

In the case of an appeal at the interim stage, eligibility or shortlisting, the competition may continue but every effort should be made to conclude the review before the competition moves to the next stage.

Where an interview process takes place in parallel with review, candidates should be informed of the existence of the appeal and advised that all places are provisional pending the completion of the review.

4.3 Timelines

The statutory timelines are set out in the Codes of Practice are summarised in Appendix 4.

4.4 Record Keeping

The Code of Practice requires that the HSE has effective systems in place for handling requests for review and appeals. It is therefore imperative that accurate and comprehensive records are maintained in respect of all requests under Section 7 and Section 8. To satisfy the requirements of the Code of Practice the receiving unit will develop a response plan which identifies the critical events, documentation and records required in the management of the request for review or appeal. This document will accompany the investigation of the review/appeal as it moves through the appropriate review/appeal process. This response plan is detailed in Appendix 5.

5.0 Investigating the Complaint

It is imperative that the person investigating a complaint follows fair process and applies the laws of natural justice so that the Health Service Executive complies with the conditions of its Recruitment Licence.

5.1 Initial Formal Review Section 7

The initial formal review will be conducted by a person unconnected to the decision/issue under investigation. The reviewer should:

- Identify the issues being raised by the candidate
- Clarify with the complainant the decisions in the recruitment and selection process that are the subject of the complaint.
- Identify the documentation to be reviewed and make arrangements to secure them
- Identify the personnel with whom it will be necessary to meet in order to complete the review or investigate the complaint. The initial reviewer should advise the identified individuals of the existence of the complaint and furnish them with a copy of the relevant complaint in advance of any meeting. The reviewer should meet with relevant people on an individual basis.
- Complete the Code of Practice Response Plan, Appendix 5, as appropriate during the investigation. Keep a comprehensive record of all meetings and communications.
- Confine the investigation to those area/issues raised in the complainant's correspondence

5.2 Decision Arbitrator Review – Section 7

The review will be carried out by the designated Decision Arbitrator for the HSE Area or another designated decision arbitrator as nominated by the National Director of Human Resources. The role of the decision arbitrator is to assess whether the initial review has been carried out in line with proper procedures.

The Decision Arbitrator will

- make his/her decision on the basis of the report of the initial reviewer,
- make his/her decision on the basis of any written information available in respect of the matter, or written submissions made, and will not generally conduct interviews, although he/she may do so if warranted by the particular circumstances of individual cases.

The complainant cannot introduce any new issues or evidence at this stage except where they refer to the conduct of the initial review itself.

The decision of the Decision Arbitrator in relation to such matters is final.

5.3 Initial Formal Review - Section 8

The review will be carried out by the designated senior manager for the HSE Area (the designated decision arbitrator) or another designated manager as nominated by the National Director of Human Resources.

The reviewer should:

- Identify the issues being raised by the candidate
- Clarify with the candidate the exact nature of the allegation and request them to set out in writing, if they have not already done so, those aspects of the action or decision in relation to his/her candidature that he/she wishes to have reviewed together with any relevant documentation which the complainant feels might support his allegation.
- Identify the principle or principles the complainant is alleging were breached
- Identify the documentation that needs to be reviewed and make arrangements to secure them
- Identify the personnel with whom it will be necessary to meet in order to complete the review or investigate the complaint. The initial reviewer should advise the identified individuals of the existence of the complaint and furnish them with a copy of the relevant complaint in advance of any meeting. The reviewer should meet with relevant people on an individual basis.
- Complete the Code of Practice Response Plan, Appendix 5, as appropriate during the investigation. Keep a comprehensive record of all meetings and communications.
- Confine the investigation to those area/issues raised in the complainant's correspondence
- Confine any recommendations to the specific issues raised as they pertain to the complainant

6.0 Reports

A copy of the initial formal report should be sent to the Recruitment Manager, Policy and Standards for central records.

6.1 Initial Formal Reports under Section 7 and Section 8

The format of the reports, should include the following

1. Statutory background and context
2. Case details
3. Date log of key events
4. Methodology used
5. Summary of complaint
6. Findings
7. HSE's response to complainant
8. Conclusions and findings

A sample report structure and required content for the initial formal review under Section 7 and Section 8 is attached at Appendix 6.

6.2 Decision Arbitrator's Report

As the Decision Arbitrator's role is to assess whether the initial review has been carried out in line with proper procedures the report will contain their assessment of the conduct of the initial formal review. This assessment will be in terms of the scope of the investigation, the documents reviewed, meetings or interviews held, the reviewer's analysis of the facts and issues raised, responses to the issues raised and the conclusions made.

A copy of the formal report should be sent to the Recruitment Manager, Policy and Standards for central records.

Should the initial formal review be deemed flawed or unsound the decision arbitrator should conduct their own full investigation into the matters raised.

Or

The decision arbitrator may request that the Recruitment Manager, Policy and Standards appoint another manager to re-investigate the matter at initial formal review stage.

7.0 Frequency of Review

This policy will be updated in line with recommendations or instructions from the CPSA, annual reviews on the management of the review/appeals process and on receipt of internal audit reports.

8.0 References

Code of Practice Appointments in the Civil Service and Public Service
Code of Practice Emergency Short-Term Appointments to Positions in the Health Service Executive
Code of Practice for Atypical Appointments in the Civil Service

9.0 Appendices

Appendix 1	Overview of Review/Appeals procedures Section 7 and Section 8
Appendix 2	Section 7 review procedures-CPSA
Appendix 3	Section 8 review procedures-CPSA
Appendix 4	Timelines
Appendix 5	Code of Practice Response Plan
Appendix 6	Initial Formal Report structure, Section 7 & Section 8
Appendix 7	Decision Arbitrator's report