

<b>Sunbeam House Services Policy Document</b>	<b>Complaints Policy</b>
	<b>05<sup>th</sup> January 2018</b>

### DOCUMENT CONTROL:

<b>Policy Title:</b>	Complaints Policy
<b>Policy Number:</b>	017.077
<b>Owner:</b>	Quality, Compliance & Training Department
<b>Contributors:</b>	<b>Internal:</b> Complaints and Compliments Coordinator <b>External:</b> Mary Culleton, External Consultant
<b>Version:</b>	5.0
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<b>Post holder responsible for review:</b>	Complaints and Compliments Coordinator
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<b>Web address:</b>	www.sunbeam.ie
<b>Restrictions:</b>	None
<b>Related Policies:</b>	HSE Your Service Your Say – Service Users and Advocates: <a href="http://www.hse.ie/eng/about/QAVD/Complaints/ysysguidance/ysys2017.pdf">http://www.hse.ie/eng/about/QAVD/Complaints/ysysguidance/ysys2017.pdf</a>
<b>Related Procedures:</b>	Reference Appendix 5

### VERSION CONTROL:

Version Number:	Owner:	Description:	Circulation:
1.0	MD in capacity as Organisational Complaints Lead	Review	SMT
2.0	MD Office	Section 10.0: Complaints Officer/ Organisational Complaints Lead Non-compliance action assigned by HIQA under Outcome 01	SMT/All in SHS
3.0	Complaints Officer	Update policy to remove MD by role or name, as OCL/ Complaints Officer to SHS. Change of Department ownership from MD Office (Department Identifier 002), to Quality (Department Identifier 009)	SMT/ BOD/ All in SHS/ Publications SHS Website/ SHS e-learning/ SHS SharePoint Policies
4.0	Complaints Officer (formally listed as Organisational Complaints Lead)	Action Plan in Response to the Assurance Review of Sunbeam House Services CLG. 25 <sup>th</sup> April 2017, Recommendation 13.1	SMT/ BOD/ All in SHS/ Publications SHS Website/ SHS e-learning/ SHS SharePoint Policies
5.0	Complaints and Compliments Coordinator	Amendments applied to ensure SHS complaints policy complies with new draft of HSE “Your Service, Your Say” policy which has removed Stage 2a from complaints process. Changes applied to following sections of policy as a result: <ul style="list-style-type: none"> <li>Section 9.0, Table 2 – removal of Stage 2a row; Stage 2b now becomes Stage2</li> </ul>	SMT/ BOD/ All in SHS/ Publications SHS Website/ SHS e-learning/ SHS SharePoint Policies

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		<ul style="list-style-type: none"> <li>• All of Section 9.1.2 has been amended to incorporate changes at Stage 2 of complaints process</li> <li>• Section 9.1.3 no longer refers to Stage 2a(Stage 2;a no longer part of the complaints process as per Your Service, Your Say national policy change); Section 9.1.3 becomes Stage 3: HSE Internal Review</li> <li>• All of Section 9.1.3 has been amended to incorporate changes at Stage 2 of complaints process.</li> <li>• Appendix 2 – insertion of new complaints workflow in line with Your Service Your Say.</li> <li>• Family/ Advocate leaflet updated to remove Stage 2a from table</li> </ul> <p>Additional Changes made not related to national policy change:</p> <ul style="list-style-type: none"> <li>• Section 7.2 has been incorporated into Section 6.2</li> <li>• List of abbreviations and throughout – Complaints Officer/ CO amended to Complaints and Complements Coordinator/ CCC</li> <li>• Appendix 5 – removal of policy 013.067 from table, this is an obsolete policy incorporated into Safeguarding and Protection, originally listed in error</li> </ul>	
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**LIST OF ABBREVIATIONS:**

- **SHS** – Sunbeam House Services
- **HSE** – Health Service Executive
- **CCC** – Complaints and Compliments Coordinator
- **LCO** – Local Complaints Officer
- **CSM** – Client Services Manager
- **DCSM** – Deputy Client Services Manager
- **SSM** – Senior Services Manager
- **SMT** – Senior Management Team
- **BOD** – Board of Directors
- **CID** – Central Information Database
- **QCT** – Quality, Compliance and Training

**LIST OF APPENDICES:**

- **Appendix 1:** Matters excluded from right to complain under Part 9 of the Health Act 2004
- **Appendix 2:** HSE “Your Service Your Say” & SHS CID Complaints Workflow
- **Appendix 3:** LISTEN Approach
- **Appendix 4:** Location Easy to Read Complaints Poster
- **Appendix 5:** Table 1: Policy Number, Title, Descriptor of other SHS policies which support or compliment the Complaints Policy.

**LIST OF TABLES:**

- **Table 1 (Appendix 5)** – Policy Number, Title, Descriptor of other SHS policies which support or compliment the Complaints Policy.
- **Table 2 (page 11)** - Four Stages in the complaints process as set out in the Act.

**NOTES:**

- In this policy, business working days are defined as Monday to Friday of each week and are not inclusive of Saturday, Sunday or Bank Holiday Mondays.
- All complaints and supporting documents disclosed to SHS will be recorded on inhouse CID database.

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## **1.0 POLICY STATEMENT:**

Sunbeam House Services (SHS) welcomes feedback from the people we support, families, guardians, advocates, visitors and the community about the services provided by us. Complaints, criticisms or suggestions, whether oral or written, will be taken seriously, and handled appropriately and sensitively, and in accordance with this policy.

### **1.1:Background to the policy:**

This policy was developed in line with the Health Service Executive (HSE) National Healthcare Charter “Your Service, Your Say”, to meet SHS responsibilities of ensuring that people who use the service, their families, and members of the public are aware of their right to make a complaint and their rights throughout the complaint process.

This policy is underpinned by the following national policy, legislation and regulations:

- Health Act 2004, Part 9 - Complaints
- Health Act 2004 (Complaints) Regulations 2006
- Health Act 2007, Part 13 - Regulations
- Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults with Disabilities) Regulation 2013
- National Standards for Residential Services for Children and Adults with Disabilities
- Freedom of Information Act, 2014
- Data Protection Acts 1988 and 2003
- Ombudsman Act 1980 – 1994
- Ombudsman Act Amendment 2012

## **2.0 AIM OF THIS POLICY:**

The aim of this policy is to outline how the people we support, families, guardians, advocates, visitors and the community can make a complaint, and to ensure that any complaints received are dealt with in a fair way and to the satisfaction of the complainant where at all possible.

## **3.0 SCOPE OF THE POLICY:**

This policy may be used by or on behalf of any person who is being or was provided with a service from SHS or who has sought provision of such service.

The person or advocate acting on their behalf may complain in accordance with the procedures established under this policy about any action of SHS that:

- a. it is claimed, does not accord with fair and sound administrative practice (please refer to list below), and,
- b. adversely affects or affected that person.

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**An action does not accord with fair and sound administrative practice if it is:**

- taken without proper authority,
- taken on irrelevant grounds,
- the result of negligence or carelessness,
- based on erroneous or incomplete information,
- improperly discriminatory,
- based on undesirable administrative practice, or
- in any other respect contrary to fair or sound administration.

All complaints will be received and considered by SHS however, the Health Act 2004 details a number of complaints that are not included under Part 9 of the Health Act. (Reference Appendix 1)

Other complaints received will be addressed using one or more of SHS policies listed in Table 1 (Reference Appendix 6).

Based on information disclosed by a complainant, a complaint may be processed using one or more of the policies listed in Appendix 6, in conjunction with, or outside of the complaints policy.

#### **4.0 COMPLAINTS POLICY:**

**4.1.1:** SHS commits to safeguarding the rights and dignity of people who use the service, their families and staff members, in the implementation of this policy and associated supporting documents.

**4.1.2:** Complaints, criticisms or suggestions, whether oral or written will be taken seriously and handled appropriately and sensitively.

**4.1.3:** SHS commits to learn from complaints and use this learning to inform the improvement of the services and supports provided.

**4.1.4:** The complaints handling process will be implemented without fear, favour or prejudice towards the complainant, or the person or service about which the complaint was made.

**4.1.5:** SHS will communicate with the complainant throughout the process and endeavour to resolve the complaint to their satisfaction.

**4.1.6:** SHS have a designated Complaints and Compliments Coordinator whose role is to ensure a complaint is reviewed and/ or investigated in a timely manner, in line with complaints policy and where the best possible outcome is achieved and is agreed by all parties.

**4.1.7:** All information obtained through the course of complaint management will be treated in a confidential manner and in line with the Data Protection Act 1988 and 2003 and the Freedom of Information Act 2014.

The complaints process will necessitate the gathering of essential and appropriate information to ensure the effective management of the complaint and the education of the organisation without compromising the rights to confidentiality of either the complainant or the service about which the complaint was made.

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When a complaint has been made to SHS, the staff member to whom this disclosure is made, must at the time of disclosure, make it clear to the complainant that external agencies, such as but not limited to, HIQA or the HSE, may at any time require access to their complaint documentation or records for review, inspection or investigation purposes.

**4.1.8:** SHS commits to providing training to all staff to enable them to effectively implement the complaints management policy.

**4.1.9:** A written copy of the SHS Complaints Policy is available on request from SHS and through SHS website [www.sunbeam.ie](http://www.sunbeam.ie)

**4.1.10:** An easy to read copy of the complaints procedure will be held in hard copy in all locations and is also available through SHS website [www.sunbeam.ie](http://www.sunbeam.ie)

**4.1.11:** It is the responsibility of all SHS staff to respond to and resolve complaints at the first point of contact wherever possible.

**4.1.12:** The LCO will ensure the CID complaints records are maintained and updated in accordance with the agreed procedures.

**4.1.13:** The CCC has permission to access all SHS complaints records and supporting documents.

**4.1.14:** The LCO will forward repeated complaints to the CCC for discussion and agreement on an approach to resolution.

**4.1.15** SHS will ensure that CSM, DCSM or SSM appointed to carry out investigations have the appropriate training and experience.

## **5.0 ROLES AND RESPONSIBILITIES:**

### **5.1.1: Employees :**

- All SHS employees have an obligation to deal with complaints made to them using the guidance outlined in this policy and the HSE “Your Service Your Say” policy. All employees must endeavour, where appropriate, to resolve the complaint locally and informally, i.e. Stage 1 of this process.
- If the matter cannot be resolved by the staff member, the complaint must be forwarded by staff to the appropriate LCO, in conjunction with CCC where necessary, for review and/ or investigation.
- All employees must participate in Complaints Management Training. This training will inform staff on legal requirements of the policy and the process, making an apology to complainants, collection of relevant data and practical application of the policy.

Additionally, employees may be required to:

- Partake in any investigation of a complaint where necessary
- Be involved in improvement initiatives within their service
- Provide complaints data to service managers

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### **5.1.2: Client Service Manager (CSM)/ Deputy Client Services Manager (DCSM) (Where DCSM appointed)**

The CSM and DCSM, in locations where a DCSM has been appointed, are the Local Complaints Officer (LCO) for their location or department. If CSM is unavailable and no DCSM in situ, a complaint that cannot be resolved at Stage 1 must be referred to SSM.

The role of LCO requires the the CSM/ DCSM to perform the following tasks:

- Ensure all staff, including themselves, have received training in respect of the complaints policy, procedure and CID database for handling complaints.
- To assess each complaint upon receipt to ensure the complaints policy is the applicable policy for handling the information which has been declared by the complainant, and not any policy listed in Table 1.
- To ensure all complaints are handled in an effective, empathic and caring manner, with a swift resolution where possible and an outcome which is deemed acceptable by the complainant.
- To investigate the complaint should a formal investigation be warranted, unless they are directly involved in the complaint which has been made. Should this occur, the responsibility of formal complaint investigation is assigned to the relevant SSM who then performs the role of LCO.
- To maintain formal communication with the complainant throughout the complaints process within the specified timelines as defined under the Health Act 2004.
- Provide regular updates to the CCC in respect of any current complaints investigation within timelines as defined within the Health Act 2004, i.e. closeout in 30 business working days; update every 20 business working days thereafter.
- Provide final report to all parties involved in the complaint investigation.
- To meet with those involved in the formal complaint investigation for feedback, discussion and agreement of outcomes and actions of complaint.
- To ensure all agreed recommendations and/ or redress made within the complaints investigation report are implemented as a matter of priority, ensuring all records and the CID complaints database has these changes and implementation dates recorded.

### **5.1.3: Senior Services Manager (SSM):**

- As a member of the SMT team, each SSM has the responsibility to analyse the complaints report which is provided on a **quarterly** basis by the CCC to the SMT and to take learning from this report. This analysis will assist the CCC and SMT in the identification of patterns of complaints that may be specific to a location, a staff member or a person supported within the service, and which may indicate further review or investigation.
- Where a SSM is required to review/ investigate an issue, pattern or recurring complaint, the CCC will provide details of complaint/s to the relevant SSM outside of SMT meeting. The SSM must then follow up the issue with the relevant CSM and provide an update and decision to the CCC in respect of the issue.

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- In addition, if due to the nature of the complaint disclosed, a complaint is deemed by the LCO and the CCC to be of an extremely serious nature or is a complaint which directly involves the CSM/ DCSM, the SSM must perform the LCO investigative role in place of the CSM/ DCSM.
- SSM will also take on role of LCO if CSM is unavailable and no DCSM appointed in location.

#### **5.1.4: Senior Management Team (SMT):**

- The SMT are required to collectively analyse the complaints report which is provided on a quarterly basis by the CCC to the SMT and to take learning from this report.
- To discuss and agree resource provision identified through the complaints process.
- To ensure the effective management of compliants is included as part of CSM/ DCSM supervision and annual appraisal.

#### **5.1.5: Complaints and Compliments Cordinator (CCC) :**

- Working as part of QCT Team in developing a close working relationship with frontline staff and managers in their service to ensure impartial, personal, effective and efficient complaints service is provided to any person raising an issue.
- This includes advising frontline staff in the receipt, management and response to complaints, comments and concerns raised in line with SHS complaints policy and procedures within recognised best practice.
- Working closely in an advisory and review capacity with staff and managers to resolve complaints, comments and concerns in a timely and efficient way and in line with SHS Complaints Policy, to achieve the best possible outcomes for complainants and services concerned.
- To support SHS in ensuring it learns from feedback, comments, complaints and concerns in order to continually improve the quality of our services.
- Participate in meetings held following or in respect of complaints, offering support to any of the parties involved including service users, families and staff members.
- The CCC will not directly investigate complaints but will in an oversight and review capacity, ensure due and fair process is followed as per SHS complaints polciy and HSE “Your Service Your Say policy”.
- Will in consultation with SHS SMT and/ or BOD, appoint an appropriate internal or external complaints investigator where required.
- Oversee the implementaion and completion of action plans which are agreed as part of resolution to complaint made.

#### **5.1.6: Board of Directors (BOD):**

- Oversight and review of SHS complaints policies and procedures
- The BOD are required to collectively analyse the complaints report which is provided on a quarterly basis by the CO to the BOD and to take learning from this report.
- To discuss and agree resource provision identified through the complaints process.

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## **6.0 MAKING A COMPLAINT:**

**6.1.1:** A complaint can be made in a number of ways including:

- In person
- By telephone
- By letter
- By email
- By making a video recording
- By making a voice recording

**6.1.2:** A complaint can be made to any staff member, manager, CO or director of SHS.

**6.1.3:** If a complaint is being made about a particular person and the person's name is being given, the staff member the complaint has been made to must, where possible, obtain and record specific details such as dates, witnesses to event and locations. This will provide the person dealing with the complaint the ability to check the facts of the complaint.

**6.1.4:** A complaint must be made within 12 months of the date of the event concerned, or within 12 months of becoming aware of the event.

## **6.2 TIME LIMITS FOR MAKING A COMPLAINT:**

**6.2.1:** The LCO/ CCC in SHS must determine if the complaint meets the time frames as set out in Section 47, Part 9 of the Health Act 2004 which requires that "A complaint must be made within 12 months of the date of the action giving rise to the complaint ,or within 12 months of the complainant becoming aware of the action giving rise to the complaint."

It is more difficult to investigate a complaint where the action giving rise to the complaint happened more than a year previously. It is important that any staff member taking such a complaint from a complainant explains that whilst SHS will endeavour to investigate the matters raised, it may be difficult to give a comprehensive response due to the passage of time.

**6.2.2:** The LCO/ CCC may extend the time limit for making a complaint if they are of the opinion that special circumstances make it appropriate to do so. These special circumstances include but are not exclusive to the following:

- If the complainant or person involved in complaint investigation is ill or bereaved.
- If new relevant, significant and verifiable information relating to the action becomes available to the complainant.
- If it is considered in the public interest to investigate the complaint.
- If the complaint concerns an issue of such seriousness that it cannot be ignored.
- Diminished capacity of the service user at the time of the experience e.g. mental health, critical/long term illness.

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- Where extensive support was required to make a complaint and this took longer than 12 months.
- The LCO/ CCC must notify the complainant of a decision to extend/not extend time limits within 5 business working days.

### **6.3 ADVOCACY:**

**6.3.1:** All complainants have a right to appoint an advocate to assist them in making their complaint and to support them in any subsequent processes in the management of that complaint.

An advocate can be a family member, a friend, a trusted member of staff or a professional advocate through the National Advocacy Service.

**6.3.2:** SHS will support people who use the service and who wish to make a complaint but who otherwise would find it difficult or impossible to make such a complaint themselves, to source appropriate advocacy services e.g. The National Advocacy Service for People with Disabilities Telephone: 0761 07 3000.

### **7.0 TIMEFRAMES INVOLVED ONCE COMPLAINT HAS BEEN RECEIVED:**

Please note, where applicable, i.e Stage 2 formal review, letters of response and updates will be provided to the complainant in respect of every stage of the complaint from point of receipt to completion of investigation.

If the complainant has limited literacy skills or has the preference to meet and discuss the complaint in person or by phone throughout the process, the LCO will meet with or call the person throughout the process.

A record of these meetings/ discussions and points discussed will be recorded in written format and/ or entered into relevant CID record. A copy of any such record will be provided to the complainant. These documents will form part of the complaint record.

**7.1.1:** Where the LCO determines that the issue raised is not a complaint and will not be investigated, the LCO will inform the complainant in writing, within 5 business working days of making the decision/determination, that the complaint will not be investigated and the reasons for this decision.

**7.1.2:** If the LCO determines that the complaint relates to another policy i.e Safeguarding and Protection policy, the LCO will inform the complainant in writing, within 5 business working days of making the decision/determination, that the complaint will now be handled/ investigated under a different policy and the reasons for this.

**7.1.3:** Where the complaint will be investigated, the LCO must endeavour to have the investigation concluded within 30 business working days of it being acknowledged.

**7.1.4:** Where the issues raised cannot be investigated and concluded within 30 business working days then the LCO must communicate this to the complainant and the relevant service location and/ or staff member. This notification must be provided within 30 business working days of acknowledging

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the complaint and must give an indication of the estimated time it will take to complete the investigation.

**7.1.5:** The LCO must update the complainant, the relevant staff member, family member or advocate every 20 business working days throughout the investigation process.

**7.1.6:** The LCO must endeavour to conclude the investigation within 30 business working days. However, where the 30 business working days time frame cannot be met despite every best effort, the LCO must endeavour to conclude the investigation of the complaints within 6 months of the receipt of the complaint, where this is possible.

**7.1.7:** If this timeframe cannot be met, the LCO must inform the complainant that the investigation is taking longer than 6 months. An explanation as to why investigation is taking longer than 6 months must be provided to the complainant and the options open to the complainant.

**7.1.8:** SHS encourages each complainant to remain engaged with the SHS complaints management process prior to referral of their complaint to the HSE or the Office of the Ombudsman. However, a complainant must be informed at the time complaint is made, of their right to request a HSE (Stage 3) or Office of the Ombudsman (Stage 4) review at any point in the SHS complaint investigation process.

## **8.0 ACKNOWLEDGEMENT OF A COMPLAINT:**

**8.1.1:** When a complaint has been received, SHS will endeavour to deal with the complaint effectively and efficiently at local level where possible, i.e. Stage 1 as explained in Section 9.0 of policy.

**8.1.2:** Complaints being dealt with formally will be acknowledged in writing within 5 business working days. The letter of acknowledgement will outline to the complainant the steps to be taken in investigating the complaint. This letter will also provide the estimated time line for the completion of the investigation, where an estimated date of completion can be determined.

The LCO takes responsibility for the information and content of all correspondence, including letters of acknowledgement, updates on progress, closeout report and any accompanying letters or communications which are provided to the complainant.

**8.1.3:** SHS will endeavour to resolve complaints to the satisfaction of the complainant in strict accordance with the process for managing complaints in SHS.

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## 9.0 STAGES OF MANAGING A COMPLAINT:

**Table 2: Fours Stages in the complaints process as set out in the Act:**

<b>Stage:</b>	<b>Description:</b>	<b>When to use:</b>	<b>Time period:</b>	<b>Person responsible:</b>
<b>1</b>	Point of contact resolution (Informal)	A complaint that is easily and quickly resolved and with the agreement of all parties involved/ named in the the complaint (Verbal). At this point the complaint may/ may not be escalated to a senior manager an dif clinical issue, relveant cliniciac must be included.	As soon as possible but must be within 48 hours	All staff
<b>2</b>	Formal Investigation process	A complaint that will be managed through formal investigation.	Within 30 days and if not possible, with updates every 20 days	LCO or External Investigator
<b>3</b>	HSE Review	HSE formal review of management of complaint investigation, outcome and action plan proposed to complainant. This is invoked by the complainant or an advocate acting on behalf of the complainant.	At any time	HSE
<b>4</b>	Ombudsman Review	Formal review carried out by the Office of the Ombudsman into management of complaint investigation, outcome and action plan proposed to complainant. This is invoked by the complainant or an advocate acting on behalf of the complainant.	At any time	Ombudsman

### 9.1.1: What happens at Stage 1: Local Resolution of a complaint at the point of contact.

- On receipt of a verbal complaint, the staff member will respond to it promptly and do their best to resolve the complaint locally. The staff member may consult with their LCO to agree how best to quickly resolve the complaint.
- The staff member will log the complaint in the CID database.
- The staff member will strive to achieve local resolution. Local resolution is reached when the complaint has been resolved to the satisfaction of the complainant, at the point of contact.
- The staff member will record the actions taken to resolve the complaint in associated CID record.
- The staff member will discuss repeated 'local resolution' complaints with the LCO to decide at what point they should be escalated to the SSM for further investigation/informal resolution.
- If the complainant is not in agreement with the outcome of complaint at Stage 1, the LCO will escalate the complaint to Stage 2 which will mean a formal investigation of complaint will be carried out in an effort to reach an outcome that is acceptable to the complainant.

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### 9.1.2: What happens at Stage 2

**The written complaint is received from Stage 1 or directly from the complainant.**

A complaint that has not reached an agreed resolution at Stage 1 must be referred by SHS to Stage 2. It is always important to meet the complainant and to ensure that their complaint is fully understood and that the complainant understands the steps that are being taken to resolve their issues.

- The relevant LCO will contact the complainant within 2 working days after meeting.
- The relevant LCO will acknowledge the formal complaint in writing within 5 business working days
- The relevant LCO reviews the CID recorded complaint and decides how to manage the complaint in consultation with all relevant parties. This will include checking its validity and how to proceed with the complaint as follows:
  - If the complaint cannot be dealt with using SHS complaints policy, it:
    - should be dealt with through an alternative SHS policy (Reference Table 1)
    - should be referred to the appropriate body for investigation
    - should be discussed with the complainant with an explanation as to why the complaint cannot be investigated
    - if there is a clinical component to the complaint, clinical input should be sought or if entirely clinical issues are raised, a clinician should have significant involvement in investigation
- The LCO must work to seek resolution by communicating with the relevant parties, this may involve meeting with both parties together to resolve the matter.
- Where there is resolution of a complaint to the complainant's satisfaction the outcome will be recorded as such by the LCO on the CID complaint record and a letter outlining agreed plan and outcome will be provided to all parties.
- If resolution is not reached at this point the LCO will inform the CCC, who will appoint an internal investigator to manage the complaint thereafter or/
- Mediation by a mutually agreed 3<sup>rd</sup> party may be used to attempt resolution of the complaint at this stage if both parties agree.
- The SSM/ SMT/ BOD will appoint a team or single investigator to carry out a formal investigation of the complaint and agree the Terms of Reference for the investigation.
- The team or investigator will carry out the investigation within 30 business working days of acknowledgement of the complaint, where this is possible.
  - If this is unachievable, the complainant must be advised of such within 30 business working days of acknowledgement of the complaint and an update on investigation progress provided to the complainant every 20 business working days thereafter.
- The investigator/ investigation team will generate a report with recommendations signed by the CCC and this report will be circulated to the complainant and relevant CSM and SSM.
- Learning from the complaints to be forwarded to the CEO, SMT and BOD.

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**The investigation process will involve:**

- Interview/s with the complainant giving them an opportunity to give their version of events and to provide evidence/explanations in relation to their actions.
- Interview/s with other relevant parties giving them an opportunity to give their version of events and to provide evidence/explanations in relation to their actions.
- Informing all parties interviewed of their right to be accompanied by a support person/an advocate or a third party.
- Giving the complainant the opportunity to identify what they would like to happen as a result of making the complaint.
- Managing the expectations of the complainant and being clear with complainant about what can and cannot be achieved through the investigation.
- Determining the sequence of events leading to the complaint and the root causes of the complaint.
- Ensuring any conclusions about the complaint are based on a logical flow to the evidence supporting the complaint.
- Affording the person concerned the opportunity to consider any adverse proposed findings or criticism and to make representations in relation to them.

**What happens when investigation is complete:**

- When the investigation of the complaint is complete the investigator will produce a draft report which will include: - Background information on the complaint - Sequence of events - Findings of the investigation - Recommendations which they consider appropriate
- Draft extracts for factual checking will be sent to the relevant parties.
- The investigator will finalise the report and forward it to the complainant and to the SSM/ SMT/ BOD.
- The Complainant reviews the report and accepts or does not accept the report:
  - a. If the Complainant accepts the report the LCO will work with relevant others to develop an Action Plan to implement the recommendations
  - b. If the complainant does not accept the report/is dissatisfied with the outcome, he/she may apply to the HSE or to the Office of the Ombudsman for a review.
- The LCO oversees the implementation of the Action Plan in the agreed time frames.
- The CCC in conjunction with relevant SSM and CSM team members monitors the implementation of the Action Plan.
- The CCC ensures the investigator has attached all relevant records relating to the complaint in electronic format within the relevant CID complaint record.
- The CCC will also request all hard copies of formal investigations reports and related records are forwarded in their entirety to the CCC for filing and retention.
- The CCC will only hold documents relating to issues or concerns managed through this complaints policy.

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- No hard copies of the complaint or supporting investigation information or data relating to the complaint are to be held in the service users chart.

#### **9.1.3: Stage 3: HSE Internal Review**

- The complainant may seek a review of the outcome of the investigation by the HSE Internal Review Process through the Head of Consumer Affairs within 30 days of receipt of final report. All requests for a HSE internal review should be forwarded to: The Head of Consumer Affairs, HSE, Oak House, Millennium Park, Naas, Co. Kildare.

#### **9.1.4: Stage 4: Independent Review – Office of the Ombudsman:**

- If the complainant is not satisfied with the outcome of the SHS or HSE Complaints Management Process, he/she may seek a review of the complaint by the Ombudsman
- Office of the Ombudsman 18 Lr. Leeson Street, Dublin 2 Tel +353-1-639 5600 Lo-call: 1890 223030 Fax: 01 639 5674 Website: [www.ombudsman.gov.ie](http://www.ombudsman.gov.ie).

### **10.0 REDRESS:**

**10.1.1:** When a complaints investigation has been conducted through the application of the SHS complaints system and process, and the investigator has deemed the complaint to be upheld, SHS will offer a range of timely and appropriate remedies which will enhance the quality of service to people who use the service and their families. The outcomes of complaints investigations carried out by SHS, will provide useful feedback to the organisation and enable SHS to review current processes and procedures which may be giving rise to complaints.

**10.1.2:** Redress will be consistent and fair for both the complainant and SHS.

**10.1.3:** SHS will offer forms of redress or responses that are appropriate and reasonable where it has been established that a measurable loss, detriment or disadvantage was suffered or sustained by the complainant or person complainant is advocating on behalf of. This redress could include:

- Apology
- An explanation
- Admission of fault
- Change of decision
- Correction of misleading or incorrect records
- Technical assistance
- Recommendation to make a change to a relevant policy or law
- Change of practice

### **11.0 LEARNING FROM COMPLAINTS:**

**11.1.1:** SHS is committed to learning from complaints and will view each complaint as an opportunity for quality improvement.

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**11.1.2:** Managers will monitor the complaints received in their area and ensure that complaints are discussed at staff meetings as appropriate for the purpose of learning and service improvement. Information disclosed at staff meetings in respect of complaints must remain confidential and is not to be disclosed outside of staff meeting.

**11.1.3:** The CCC will work with the CSM, SSM and Board groups to review all complaints which are reported for informal resolution or formal investigation with a view to informing quality and service improvements.

**11.1.4:** CCC will report complaints to the HSE as required in the Service Level Agreement.

**11.1.5:** CCC will carry out periodic audits on the how complaints are managed to evaluate how this policy and its associated procedures are being implemented.

## **12. 0 VEXATIOUS OR MALICIOUS COMPLAINTS:**

**12.1.1:** SHS has the discretion to refuse to deal with a complaint if it is clear that the complainant is acting in a vexatious or malicious manner.

SHS complaints handling process will provide protection and support to a person or service within the organisation where it is deemed that a complaint has been made:

- without sufficient grounds
- with the conscious desire to cause harm to that person or service
- where it is apparent that the complainant is pursuing a complaint without merit and intends to cause inconvenience, harassment or expense to the organisation.

**12.1.2:** If a complaint is found to be vexatious or malicious, SHS will not pursue the complaint any further and inform the complainant of such.

**A complaint may be deemed to be vexatious or malicious where previous or current contact with complainant shows that they meet two or more of the following criteria:**

Where complainant:

- Persists in pursuing a complaint and the SHS complaints procedure has been fully and properly implemented and exhausted;
- 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;
- 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;

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- Repeatedly do not clearly identify the precise issues which they wish to have investigated, despite reasonable efforts of SHS to help them specify their concerns, and/or where the concerns identified are not within the remit of SHS to investigate;
- 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;
- 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;
- Have in the course of addressing a complaint, had an excessive number of contacts with SHS, 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;
- 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.
- Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved;
- 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).

#### **12.2.1: Process for dealing with vexatious complaint:**

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

- 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.
- 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 LCO will determine what action needs to be taken.
- The LCO will implement such action and will notify complainant 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. CCC, SSM. A record must be kept for future reference of the reasons why a complainant has been classified as vexatious.

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**The LCO may decide to deal with complaints in one of more of the following ways:**

- 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 SHS 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 SHS 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 SHS 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, SHS 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 HSE (Stage 3) and/ or the Ombudsman (Stage 4).

If a complaint is found to be vexatious, there will be no record of the complaint retained in the file of any staff member about whom a complaint was made. However, due to HSE complaints statistics reporting requirement, the vexatious complaint record will be retained in CID but will show as closed due to classification as a vexatious complaint.

**12.3.1: 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 LCO.

Subject to their approval, normal contact with the complainant and application of SHS complaints procedure will then be resumed.

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### **13.0 ANONYMOUS COMPLAINTS:**

**13.1.1:** People making a complaint should provide their contact details to the SHS to ensure that we can validate the details of the complaint and properly follow up and investigate the matter.

**13.1.2:** In general, anonymous complaints made against a named employee cannot be investigated as there is a possibility that they are vexatious or malicious and the anonymity of the complainant does not enable the principles of natural justice and procedural fairness to be upheld.

**13.1.3:** In respect of anonymous complaints, the LCO must make the decision to investigate an anonymous complaint if what has been disclosed is deemed serious or where there is the possibility that a person supported by SHS may be in danger of physical, emotional, mental or financial abuse or harm.

**13.1.4:** Details of anonymous complaints will be forwarded to relevant LCO. Depending on the nature of the complaint, the seriousness of the allegation made and the amount of information provided, there may be a good reason in certain cases for carrying out some follow-up of the complaint to identify if any areas of poor quality have been highlighted that require quality improvement.

**13.1.5:** If the complaint is made by phone, or in person, the employee taking the complaint will encourage the caller to provide a name and telephone number at which they may be contacted. The caller should be informed that, unless they provide their name and contact details, it may not be possible to investigate the complaint if the disclosure of identity is regarded as essential to facilitate a full and proper investigation of the complaint.

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**Appendix 1: Matters excluded (As per Part 9 of the Health Act):**

48. – (1) A person is not entitled to make a complaint about any of the following matters:

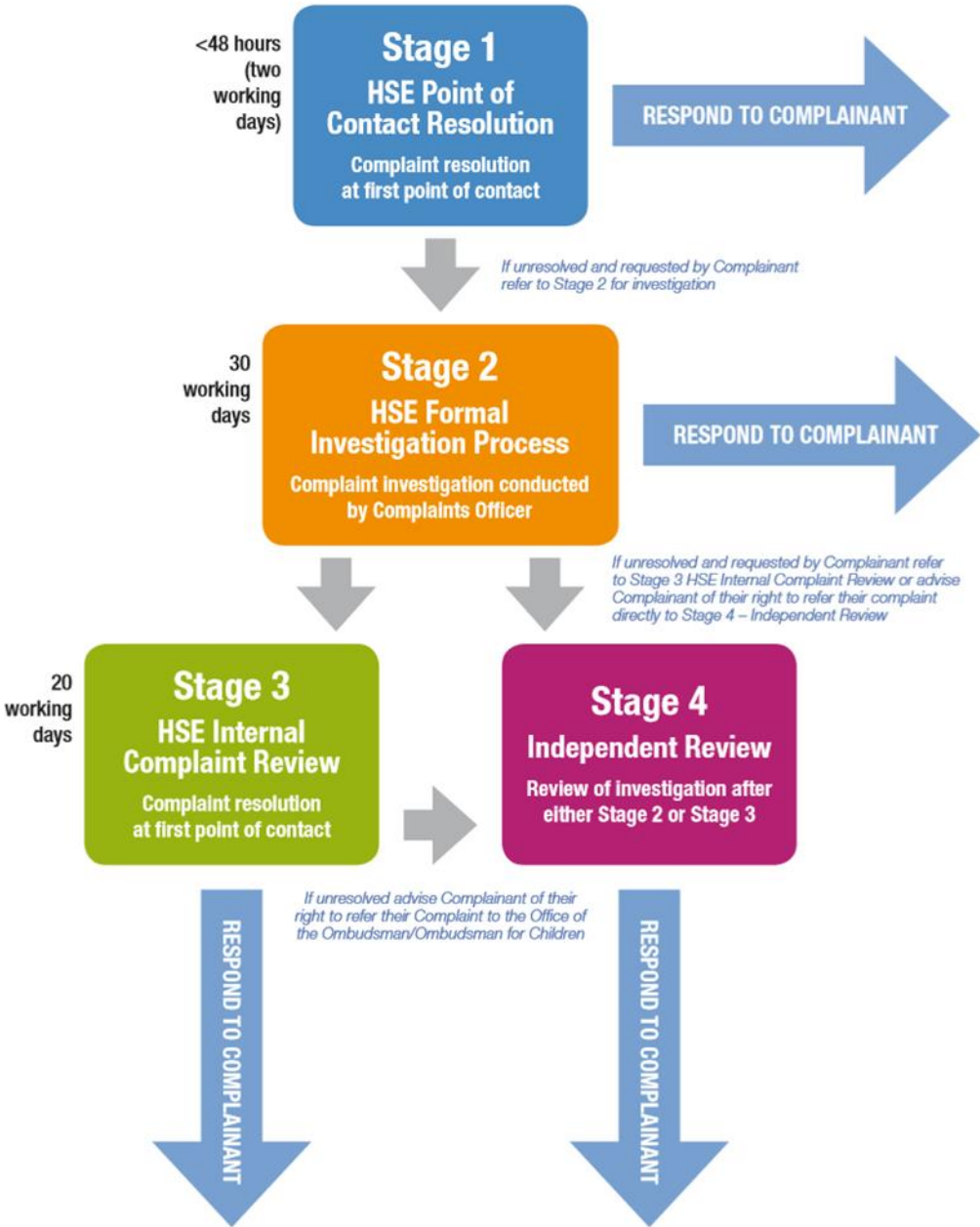
- (a) a matter that is or has been the subject of legal proceedings before a court or tribunal;
- (b) a matter relating solely to the exercise of clinical judgement by a person acting on behalf of either the Executive or a service provider;
- (c) an action taken by the Executive or a service provider solely on the advice of a person exercising clinical judgment in the circumstances described in *paragraph (b)*;
- (d) a matter relating to the recruitment or appointment of an employee by the Executive or a service provider;
- (e) a matter relating to or affecting the terms or conditions of a contract of employment that the Executive or a service provider proposes to enter into or of a contract with an adviser that Executive proposes to enter into under section 24;
- (f) a matter relating to the Social Welfare Acts;
- (g) a matter that could be the subject of an appeal under Section 60 of the Civil Registration Act 2004;
- (h) a matter that could prejudice an investigation being undertaken by the Garda Síochána;
- (i) a matter that has been brought before any other complaints procedure established under an enactment.

In the instance where complaints fall into the categories above SHS will either proceed to investigate the complaint using the appropriate procedures as outlined in the policy or will inform the complainant of the appropriate channels through which their complaint should be referred.

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**Appendix 2 - HSE Your Service Your Say Workflow:**

Figure 2: The four distinct stages of the HSE complaints management process.



Complaints Management Pathway is available inside the front cover of this document.



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### **Appendix 3: The LISTEN Approach to be used when receiving a verbal complaint**

#### **Listen:**

- Listen carefully to the issues being raised by the complainant

#### **Identify:**

- Identify if there are multiple issues relevant to the complaint and separate each issue.
- Attempt to identify any hidden or underlying issues that may exist.
- Summarise the issues to clarify and check that you understand what the person is telling you.
- Ask the complainant to confirm that they agree with your interpretation of their complaint.
- Find out from the complainant what they want to happen as a result of their complaint.

#### **Summarise:**

- Summarise the issues to clarify and check that you understand what the person is telling you.
- Ask the complainant to confirm that they agree with your interpretation of their complaint.

#### **Thank the person:**

- Thank the person for taking the time to make the complaint.

#### **Empathise and Explain:**

- Empathise and acknowledge the feelings of the complainant.
- Explain to the complainant that there will be no negative repercussions
- Explain what will happen next e.g. you may need to contact your manager
- Expression of regret or apology:
- An early expression of regret or apology can minimise the possibility of a verbal complaint becoming a formal written complaint
- Training for staff must deal with the area of expression of regret and apology. Staff must also be given the skills to recognise when a complaint can or cannot be resolved at first point of contact and when the complaint needs to be referred to Local Complaints Officer for appropriate management.

#### **Now Act:**


- Assess the verbal complaint
- Once a verbal complaint is received, the person receiving the complaint must ensure that they get as much information as possible about the complaint to assist them in assessing the seriousness and/or the complexity of the complaint. This in turn assists staff in determining if the complaint should be resolved at the point of contact or if the complaint should be referred to the Local Complaints Officer for management at Stage 2 of the complaint management process.

**Staff should only attempt to manage complaints received at the point of contact if due care has been taken to establish that all issues can be addressed appropriately at the point of contact.**


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**Appendix 4 – SHS Location Complaints Poster:**



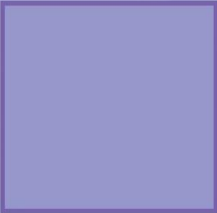


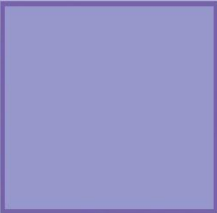


**INFORMATION ON COMPLAINTS PROCEDURE**



**We want to hear what you have to say**



Location:

	 Phone:
	 Email:
CSM:	
	 Phone:
	 Email:
Deputy CSM: (Where applicable)	

**Other ways to make a complaint:**



Letter addressed to SHS, Southern Cross House, Southern Cross Business Park, Bray, Co. Wicklow



Phone: 086 020 3150 (Lisa Flynn)



Email: [lisa.flynn@sunbeam.ie](mailto:lisa.flynn@sunbeam.ie)



Fax: 01-2760367



Through a contact form on the SHS Website: [www.sunbeam.ie](http://www.sunbeam.ie)



Complaints Officer, Lisa Flynn

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**Appendix 5:**

<b>Policy No:</b>	<b>Policy Title:</b>	<b>Policy Descriptor:</b>
010.024	The Protection of Vulnerable Adults Policy	Allegation of abuse of an adult using SHS services and supports by any person other than a staff member.
003.064	Trust in Care Policy	Allegation of abuse by a staff member of a person using SHS services and supports.
003.046	Dignity at Work Policy	Ensuring a working environment which supports the dignity of all employees.
003.052	Grievance Policy	Grievances by staff related to terms and conditions /work practices.
007.088	Data Protection Policy	Management of personal information.
014.001	Anti-Social Behaviour Policy	Provides clear guidance on how allegations of anti-social behaviour will be managed by SHS

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