
Complaints Policy

Dun Laoghaire Rathdown
Outreach Project

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1. Responsibility for approval of policy	<i>Board of Management</i>
2. Responsibility for implementation	<i>Management & Staff</i>
3. Responsibility for ensuring review	<i>Staff</i>
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Policy Statement

- 1.1. Dun Laoghaire Rathdown Outreach Project (DROP) is committed to taking seriously any complaint that concerned individuals have about the service

2. Purpose

- 2.1. This policy is intended to ensure that all complaints are taken seriously and addressed in an appropriate and professional manner.

3. Scope

- 3.1. This policy covers all actions to be taken in respect to a complaint by a concerned individual. Concerned individuals can include: service users, members of the local community and concerned stakeholders (funders, external agencies, etc). Complaints can be made against any aspect of DROP's service delivery.
- 3.2. This policy applies to all staff members and representatives from other agencies conducting in-reach.

4. Glossary

- 4.1. Complaint: In line with the Health Act 2004, "complaint" means a complaint about any action of the organisation that
 - 4.1.1. A. it is claimed, does not accord with fair or sound administrative practice, and
 - 4.1.2. B. adversely affects the person by whom or on whose behalf the complaint is madeFor the avoidance of doubt, complaints may only be made in respect of actions which have already been taken.
- 4.2. Concerned individuals: Includes anyone who is directly affected by the actions of the organisation, but excludes anyone who works for the organisation either in a paid or voluntary capacity, such as staff members or volunteers. These groups should use internal management structures and / or the organisation's grievance procedure in the event that they wish to complain about a decision affecting them.
- 4.3. Staff member: Should be construed broadly, and includes, for the purposes of this policy, staff members, volunteers, interns and locums
- 4.4. Executive: The Health Service Executive (HSE)

5. Roles and Responsibilities

- 5.1. Management are responsible for:
 - 5.1.1. Ensuring all staff members are aware of this policy and are able to advise concerned individuals on same.
 - 5.1.2. Ensuring that all complaints received are handled in line with this policy.
 - 5.1.3. Regularly monitoring the number, nature and outcome of complaints as part of the continuous quality improvement process.
- 5.2. Staff members are responsible for;
 - 5.2.1. Ensuring that all service users are informed of the complaints policy as part of their introduction to the service
 - 5.2.2. Ensuring that any other concerned individual is made aware of the complaints policy as appropriate
 - 5.2.3. Assisting concerned individuals to make a complaint as outlined in this policy when requested to do so.
 - 5.2.4. Following all other steps regarding complaints as outlined in this policy
 - 5.2.5. Ensuring they keep themselves informed in relation to this policy

6. Principles

- 6.1. All complaints should be dealt with promptly, and within the timescales outlined.
- 6.2. As far as possible all complaints should be resolved as quickly and efficiently as possible.
- 6.3. Complainants should be consulted about what they would like to happen about their complaint.
- 6.4. Complainants should be supported and given appropriate assistance throughout the procedure. They should be given the opportunity to be supported by an advocate. For the purposes of this policy an advocate is taken as being anyone who has the complainant's written permission to complain on their behalf, excluding staff members. A parent or guardian may complain on behalf of a child.
- 6.5. The complaints procedure should be well publicised. A template is included in appendix I of this policy document and should be displayed prominently in the project. All new service users will be given a brief explanation of the complaints procedure as part of their induction.
- 6.6. All complaints must be properly recorded. A Complaints Record Form template is included in appendix II of this policy document. The Manager is responsible for ensuring that complaints are properly recorded and signed by the complainant, the staff member recording the complaint and the manager. Alterations to the complaint this should be recorded and signed and dated.
- 6.7. A complaints file should be maintained and regularly monitored by the Manager.

7. Basic Information

Who can make a complaint?

- 7.1. Anyone who is a concerned individual for the purposes of 4.2
- 7.2. An advocate may also complain on a concerned individual's behalf provided they have the concerned individual's written consent.
- 7.3. A parent / guardian may complain on behalf of a child.

What can they complain about?

- 7.4. Any action of the organisation that has directly affected them. This might include:
 - 7.4.1. The manner in which the organisation has treated them
 - 7.4.2. Being denied a service
 - 7.4.3. A change in service provision
 - 7.4.4. The actions of a specific member of staff

How can complaints be made?

- 7.5. Complaints may be made in any form. However, once a complaint moves to Stage 2 (see Section 8, below), it must be recorded in writing.

Acknowledgement of written complaints

- 7.6. DROP will notify, the complainant in writing within 5 working days of an written complaint being received:
 - 7.7.1 That the complaint has been so received
 - 7.7.2 An outline of the steps that the organisation proposes to take in investigating the complaint
 - 7.7.3 A proposed time limit for the completion of the investigation
 - 7.7.4 A contact person for the complainant

Complaints involving staff

- 7.7. If the complaint is about a member of staff, the complainant should immediately be referred to a more senior person than the person about whom they wish to complain¹. In the event that the complaint cannot be resolved locally, the complainant:
 - 7.7.1. may be supported to put the complaint in writing
 - 7.7.2. will be told that the staff member will be notified of the complaint against them
 - 7.7.3. will be told that their complaint will be acknowledged as per section 7.6

What are the time limits for complaints?²

- 7.8. Time limits for complaints are 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.

 - 7.8.1. The manager/complaints officer may decide to extend the time limit for making a complaint if in the opinion of the manager/complaints officer special circumstances make it appropriate to do so. Special circumstances may include but are not limited to the following:
 - 7.8.1.1. If the complainant is ill or bereaved
 - 7.8.1.2. If new relevant, significant and verifiable information relating to the action becomes available to the complainant
 - 7.8.1.3. If it is considered in the public interest to investigate the complaint
 - 7.8.1.4. If the complaint concerns an issue of such seriousness that it cannot be ignored
 - 7.8.1.5. Diminished capacity of the service user at the time of the experience e.g. mental health, critical/long-term illness
 - 7.8.1.6. Where extensive support was required to make the complaint and this took longer than 12 months
 - 7.8.2. The manager/complaints officer must notify the complainant of the decision to extend /not extend the time limits within 5 working days

Are there any matters excluded from the complaints process?³

- 7.9. According to Section 48(1), Part 9 of the Health Act 2004

A person is not entitled to make a complaint about any of the following matters:

¹ Or to a board member in the event of the complaint being against the most senior employee

² Guidelines for Voluntary Organisations and Hospitals in Drafting Complaints Procedures. 2015. HSE.

^{3,4} Guidelines for Voluntary Organisations and Hospitals in Drafting Complaints Procedures. 2015. HSE

- 7.9.1. A matter that is or has been the subject of legal proceedings before a court or tribunal;
- 7.9.2. A matter relating solely to the exercise of clinical judgement by a person acting on behalf of either the Executive or a service provider;
- 7.9.3. An action taken by the Executive or a service provider solely on the advice of a person exercising clinical judgement in the circumstance described in 7.9.2;
- 7.9.4. A matter relating to the recruitment or appointment of an employee by the Executive or a service provider;
- 7.9.5. 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 advisor that the Executive proposes to enter into under Section 24;
- 7.9.6. A matter relating to the Social Welfare Acts;
- 7.9.7. A matter that could be the subject of an appeal under Section 60 of the Civil Registration Act 2004;
- 7.9.8. A matter that could prejudice an investigation being undertaken by the Garda Síochána;
- 7.9.9. A matter that has been brought before any other complaints procedure established under an enactment

Redress⁴

- 7.10. According to HSE guidelines on complaints,
 - 7.10.1. Redress should be consistent and fair for both the complainant and the service against which the complaint was made.
 - 7.10.2. The HSE or service provider should 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 claimant personally.
 - 7.10.3. This redress could include:
 - Apology
 - An explanation
 - Refund
 - Admission of fault
 - Change of decision
 - Replacement
 - Repair/rework
 - Correction of misleading or incorrect records
 - Technical or financial assistance
 - Recommendation to make a change to a relevant policy or law
 - A waiver of debt
 - 7.10.4. A Manager/complaints officer may not, following the investigation of a complaint, make a recommendation the implementation of which would require or cause-
 - 7.10.4.1. (a) The Executive to make a material amendment to its approved service plan, or
 - (b) A service provider and the Executive to make a material amendment to an arrangement under section 38.
 - 7.10.5. If, in the opinion of the relevant person, such a recommendation is made, that person shall either-
 - (a) Amend the recommendation in such manner as makes the amendment to the applicable service plan or arrangement unnecessary, or
 - (b) Reject the recommendation and take such other measures to remedy, mitigate or alter the adverse effect of the matter to which the complaint relates as the relevant person considers appropriate

8. Complaints Management

There are four stages to the complaints procedure:

- Stage 1 Local resolution at the point of contact
- Stage 2 Managing a written complaint
- Stage 3 Review (if applicable)
- Stage 4 Independent review

8.1. Stage 1 Local resolution at the point of contact

- 8.1.1. If a complainant has a problem with an aspect of the service they should inform a staff member. The staff member will make every effort to resolve the problem locally at first point of contact. The staff member may seek assistance from management at this stage in resolving the problem.

- 8.1.2. In the event that the problem cannot be resolved locally it must be recorded as a formal complaint to be progressed further.

8.2. Stage 2 Managing a written complaint

8.2.1. Informal resolution of a complaint

- 8.2.1.1. The manager/complaints officer taking into account the nature and circumstance of the complaint, may seek the consent of the complainant and any third party to whom the complaint applies to finding an informal resolution of the complaint by the parties concerned.
- 8.2.1.2. Where an informal resolution is not applicable or not successful, the manager/complaints officer will initiate a formal investigation.

8.2.2. Formal resolution of a complaint

- 8.2.2.1. The complaint should be reviewed by manager/complaints officer, to confirm that they are in possession of a written record of the complaint, which is signed and dated by the complainant and clearly sets out the nature of the complaint, why the initial response was unsatisfactory and what the complainant's desired outcome is.
- 8.2.2.2. The manager/complaints officer will write to the complainant in line with 7.6.
- 8.2.2.3. The manager/complaints officer will investigate the complaint and may draw on appropriate expertise, skills etc. as required.
- 8.2.2.4. The complainant and any third parties involved will be given the opportunity to discuss the complaint with the manager/complaints officer individually in private.
- 8.2.2.5. The manager/complaints officer will complete investigation of the complaint within 30 working days of acknowledging the complaint. If this is not possible, within 30 working days of acknowledging the complaint, the complainant must be informed of the delay and given an indication of the time it will take to complete the investigation. The complainant and relevant third parties must be updated every 20 working days.
- 8.2.2.6. Where the investigation passes the 30 working days timeframe, the complainant must be informed of the delay and the manager/complaints officer must endeavour to complete the investigation within 6 months.
- 8.2.2.7. Where deadlines are not met, the complainant must be informed that they can choose to move to stage 3 (if relevant) / stage 4 of the complaints management process
- 8.2.2.8. The manager/complaints officer will inform the complainant and any relevant third parties of the outcome of the investigation in writing. The letter must state whether the complaint has been upheld, and whether any further action will be taken.
- 8.2.2.9. If the complainant is not satisfied with the outcome of the investigation, they should be informed of Stage 3 and 4 reviews.

8.3. Stage 3 Review

- 8.3.1. Where a complainant is not satisfied with the outcome of an investigation in DROP, the complainant may request a review of the complaint by the Board of Management.
- 8.3.2. All requests for reviews should be addressed to Chairperson, Board of Management, Dun Laoghaire Rathdown Outreach Project, 45 Upper Georges Street, Dun Laoghaire, Co Dublin, Tel: 01 2803 187.
- 8.3.3. The Chairperson will examine the request for review and call for the formation of a review committee not including those involved in the original management of the complaint.
- 8.3.4. The Review Committee will review the processes used to carry out the investigation of the complaint and the findings and recommendations made post-investigation.
- 8.3.5. The Review Committee will either uphold, vary or make a new finding and recommendation.
- 8.3.6. The Review Committee may carry out a new investigation of the complaint or recommend that a local re-investigation of the complaint be carried out by a Complaint Officer independent of the initial investigation team.

8.4. Independent review

- 8.4.1. If the complainant is not satisfied with the outcome of the complaints management process in stage 2 or stage 3, the complainant may seek a review of the complaint by the Ombudsman/ Ombudsman for Children. The complainant must be informed of their right to seek an independent review from the Ombudsman/Ombudsman for Children at any stage of the complaint management process.
- 8.4.2. All requests for reviews may be addressed to the Office of the Ombudsman, 18 Lower Leeson Street, Dublin 2. Tel: +353-1-639 5600. Lo-call: 1890 223030. Fax: (01) 639 5674. Ombudsman for Children's Office, Millennium House, 52-56 Great Strand Street, Dublin 1. Tel: 01-8656800.

9. Anonymous Complaints

- 9.1 In the event that an anonymous complaint is received DROP will note the issues raised and, where necessary try and resolve them appropriately. An anonymous complaint may be referred for investigation:
- 9.2 If there was good reason why the complaint was being made on an anonymous basis, for example, if there was a concern by the complainant that if their identity was revealed it could lead to negative consequence on their health or well-being. This may depend on the seriousness of the allegation being made, and should be at the discretion of the manager. If the allegation involves the manager, it should be referred to the chair of the management committee.
- 9.3 If the allegation can be properly investigated either by talking to a third party witness, or with evidence provided with the complaint, and where there is no need for further contact with the anonymous complainant.
- 9.4 Any complaint involving a minor will be investigated and handled in a confidential manner according to the Child Protection Policy.
- 9.5 In the case that a complaint cannot be fully investigated, the complaint will not be referred to in the staff file or will not in any other way impact upon working process or roles etc., except where this has been agreed by all involved including the person named in the complaint.
- 9.6 If the complaint relates to the general service delivery this will be referred to the Director/CEO and remedial action will be implemented if appropriate.
- 9.7 A record of all complaints will be retained on file.
- 9.8 The organisation will continue to promote the complaints procedure and ensure appropriate supports are in place to facilitate complaints.

10. Refusal to investigate or further investigate a complaint

- 10.1 A complaints officer shall not investigate a complaint if
 - 10.1.1 The person who made the complaint is not entitled under Section 46 of the Health Act 2004 to do so either on the person's own behalf or on behalf of another
 - 10.1.2 The complaint is made after the expiry of the period specified in Section 47(2) of the Health Act 2004 or any extension if that period allowed under Section 47(3) of the Health Act 2004
- 10.2 A complaints officer may decide not to investigate or further investigate an action to which a complaint relates if, after carrying out a preliminary investigation into the action or after proceeding to investigate such action, that officer
 - 10.2.1 is of the opinion that
 - 10.2.1.1 the complaint does not disclose a ground of complaint provided for in Section 46 of the Health Act 2004
 - 10.2.1.2 the subject-matter of the complaint is excluded by Section 48 of the Health Act 2004
 - 10.2.1.3 the subject-matter of the complaint is trivial, or
 - 10.2.1.4 the complaint is vexatious or not made in good faith
 - 10.2.2 is satisfied that the complaint has been resolved
- 10.3 A complaints officer shall, as soon as practicable after determining that he or she is prohibited by subsection (1) from investigating a complaint or after deciding under subsection (2) not to investigate or further investigate a complaint, inform the complainant in writing of the determination or decision and the reasons for it.

11. Unreasonable complaint behaviour

- 11.1 It is noted that in a minority of cases where the organisation will take all reasonable measures to try to resolve a complaint through the complaint's procedure, the complainant does not accept these efforts. Where a complainant's behaviour could be considered abusive, unreasonable, or vexatious, the organisation may consider declaring it a Vexatious Complaint. The complainant must be notified of their right of review (as per Section 8) if they are not happy with the outcome of the complaint.
- 11.2 Complainants (and/or an advocate acting on their behalf) may be deemed to be vexatious where previous or current contact with them shows they meet two or more of the following criteria:
 - 11.2.1 Persist in pursuing a complaint and DROP's complaints procedure has been fully and properly implemented and exhausted;
 - 11.2.2 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.
 - 11.2.3 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;

- 11.2.4 Repeatedly do not clearly identify the precise issues which they wish to have investigated, despite reasonable efforts of DROP to help them specify their concerns, and/or where the concerns identified are not within the remit of DROP to investigate;
- 11.2.5 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;
- 11.2.6 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;
- 11.2.7 Have in the course of addressing a registered complaint, had an excessive number of contacts with DROP, placing unreasonable demands on staff or volunteers. 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;
- 11.2.8 Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with the complaint. Staff and volunteers 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.
- 11.2.9 Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved;
- 11.2.10 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).

11.3 Process for dealing with Vexatious Complaints

- 11.3.1 In determining the options for dealing with vexatious complaints it is important to ensure that:
 - 11.3.1.1 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.
 - 11.3.1.2 Staff dealing with complaints appreciate that even habitual or vexatious complaints may have aspects which contain some substance.
- 11.3.2 Where complainants have been identified as vexatious in accordance with the criteria identified above, the Manager will determine what action needs to be taken. The Manager 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
- 11.3.3 A record must be kept for future reference of the reasons why a complainant has been classified as vexatious.
- 11.3.4 The Manager may decide to deal with complaints in one of more of the following ways:
 - 11.3.4.1 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 DROP 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.
 - 11.3.4.2 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.
 - 11.3.4.3 Notify the complainant in writing that DROP 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.
 - 11.3.4.4 Inform the complainant that in extreme circumstances DROP reserves the right to pass unreasonable or vexatious complaints to its solicitors/report to Gardai.
 - 11.3.4.5 Temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice. If found to be vexatious, DROP 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. If a complaint is found to be vexatious, there will be no record of the complaint in the file of the staff member/volunteer/service about which the complaint was made.
- 11.3.5 Once a 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 Manager. Subject to their approval normal contact with the complainant and application of DROP's complaints procedure will then be resumed.

12. Complaint Recording

12.1 All complaints, whether formal or informal, are recorded on a Complaint Register within the organisations salesforce system. The register should consist of the below information and should be audited on a frequent basis to ensure that incidents are not being repeated and improvements are being made.

- 12.1.1 Name of Complainant
- 12.1.2 Type of Complaint
- 12.1.3 Reason for Complaint
- 12.1.4 Status of Complaint
- 12.1.5 Priority of Complaint
- 12.1.6 Origin of Complaint
- 12.1.7 Date of Complaint
- 12.1.8 Complaint Description with internal comments
- 12.1.9 Lead Investigator
- 12.1.10 Actions
- 12.1.11 Date Complaint Closed

12.2 The log is made available to any competent authority, ombudsman or body who relates or oversee the organisations complaints, as well as being made available on an annual basis to the Trustees of the organisation for review

13. Reporting to the HSE Annually

10.1 Service providers who has entered into a Service Level Agreement (SLA) or Grant Aid Agreement with the HSE under Section 38 or Section 39 of the Health Act 2004 are obliged to report to the HSE on complaints as requested and on the templates/format provided by the HSE. The report should include

- The total number of complaints
- The nature of complaints
- The number of complaints resolved by informal means
- The outcome of any investigations into the complaints

Complaints Process – Information for Service Users

Who can complain?

- 1) Anyone who is a user of the service.
- 2) An advocate may complain on the service user's behalf provided they have the service user's written consent.
- 3) A parent / guardian may complain on behalf of a child.

What can you complain about?

- 1) Any part of the service that you have received
- 2) A decision made about you that affects you
- 3) Being denied a service
- 4) A change in service provision
- 5) A member of staff

Important things to note:

- 1) You have the right to complain when you are unhappy with the service.
- 2) If staff cannot address your issue then they will help you write down your complaint so it can go to the manager.
- 3) If you make a complaint then you will not be treated differently following the complaint. The service sees complaints as a way to improve what we do.

Complaints involving staff:

If you wish to make a complaint about a staff member

- Tell one of the team and you will be referred to a manager, who will help you follow the process.
- Note that the staff member will be informed that a complaint has been made against them.
- If you want to complain about the manager then the complaint can go to someone more senior, again let a member of staff know.

Complaint Process

- All complaints will be taken seriously.
- If you tell a staff member about a complaint, the staff member will try to resolve the issue with you. If this does not happen and you are still unhappy then the staff member will help you complete a Complaints Record Form or write a complaint letter, which will be given to the manager.
- Once you have written down the complaint the manager will investigate the problem and get back to you in 30 working days with a response.
- If you are unhappy with the response, let the manager know and a meeting can be set up with someone more senior in the organisation within four weeks.
- You can bring a family member or other advocate to this meeting. Following this meeting you will be informed of an outcome after three days.

The complainant's desired outcome would be:

Signed

Complainant: _____ Date: _____

Manager: _____ Date: _____

Thank you for your comments. Complaints are valuable in helping to maintain and improve the service of the Dun Laoghaire Rathdown Outreach Project

How is the complaint being dealt with? (To be completed by the manager)

Actions and outcomes (to be reported by the manager)
