



ASPIRE

ASPERGER SYNDROME ASSOCIATION OF IRELAND

COMPLAINTS POLICY

Developed By: Aspire	Date developed: January 2016
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1.0 Policy Statement

Aspire is committed to taking seriously any complaint that concerned individuals may have about the service, care, support and treatment provided within the organisation. Aspire ensures that service users, their families and members of the public are aware of their right to make a complaint and their rights throughout the complaints management process.

2.0 Purpose

This policy is intended to ensure that complaints are dealt with properly and that all complaints are taken seriously and addressed in a professional manner

The purpose of this document is to detail the policy and process of Aspire in relation to the handling of complaints as defined by Section 38 of the Health Act 2004 and the Health Act 2004(complaints) Regulations 2006. This document is in accordance with the policy for the management of complaints in the Health Service Executive.

2.1 Definition of a complaint

*The Health Act 2004 states that a **Complaint** means a complaint made about any action of the Executive(HSE) or a Service Provider that, **it is claimed, does not accord with fair or sound administrative practice, and adversely affects the person by whom, or on whose behalf, the complaint is made.***

3.0 Scope

Any person who is being provided with a service from Aspire or who has sought provision of such service may complain in accordance with the procedures established under this policy about any action of the Service that

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

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 Aspire however, the Health Act 2004 details a number of complaints that are not included under Part 9 of the Health Act. (appendix 1)

4.0 Policy Statements

4.1 General Policy

- Aspire commits to safeguarding the rights and dignity of service users/their families and staff members in the implementation of this policy and associated supporting documents.
- Aspire have designated the Service Manager as the Complaints Officer for the purpose of dealing with complaints made, in accordance with Part 9 of the Health Act 2004.
- 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 1997 and 2003. The complaints process will facilitate 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 both the complainant and the service about which the complaint was made.
- Aspire commits to providing education and training to all staff to enable them to effectively implement the complaints management policy.
- A written copy of the complaints management process will be available to all, through Aspire services.
- It is the responsibility of all staff in Aspire to respond to and resolve complaints at the first point of contact wherever possible.

4.2 Making a Complaint

- A complaint can be made in a number of ways:
 - In person
 - By telephone
 - By letter
 - By email
- A complaint can be made to any staff member, manager or board member of Aspire.
- If a complaint is being made about a particular person and the person's name is being given, the complaint must be written, giving details such as dates and locations so that the person dealing with the complaint can check the facts of the complaint
- 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.

4.3 Acknowledgement of a complaint

- When a complaint has been received, Aspire will endeavour to deal with the complaint effectively and efficiently. Complaints being dealt with formally will be acknowledged within 5 working days and will outline to the complainant the steps to be taken in investigating the complaint and the time limits for the completion of the investigation.
- Aspire will endeavour to resolve complaints to the satisfaction of the complainant in strict accordance with the process for managing complaints in Aspire.
- Complaints, criticisms or suggestions, whether oral or written will be taken seriously and handled appropriately and sensitively.
- 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.

4.4 Stages of Managing a Complaint

There are 5 stages to Aspire's Complaints process as follows:

- Local Resolution (see 5.1)
- Informal Resolution (see 5.2)
- Formal Resolution (see 5.3)
- Independent Review (see 5.4)

4.5 Timeframes involved once a complaint is received by the Complaints Officer in Aspire

- Where the Complaints Officer determines that the complaint does not meet the criteria detailed in the scope of the document, the Complaints Officer will inform the complainant in writing, within 5 working days of making the decision/determination, that the complaint will not be investigated and the reasons for it.
- Where the complaint will be investigated, the Complaints Officer must endeavour to have the investigation concluded within 30 working days of it being acknowledged.
- Where the investigation cannot be investigated and concluded within 30 working days then the Complaints Officer must communicate this to the complainant and the relevant service/staff member within 30 working days of acknowledging the complaint and give an indication of the time it will take to complete the investigation.

- The Complaints Officer must update the complainant and the relevant staff/service member every 20 working days.
- The Complaints Officer must endeavour to conclude the investigation within 30 working days. However, where the 30 working days time frame cannot be met despite every best effort, the Complaints Officer must endeavour to conclude the investigation of the complaints within 6 months of the receipt of the complaint.
- If this timeframe cannot be met, the Complaints Officer must inform the complainant that the investigation is taking longer than 6 months, give an explanation why and outline the options open to the complainant.

4.6 Time Limits for making a complaint

- 4.6.1 The Complaints Officer in Aspire 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.
- 4.6.2 The Complaints Officer 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 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.
 - Where extensive support was required to make a complaint and this took longer than 12 months.
 - The Complaints Officer must notify the complainant of a decision to extend/not extend time limits within 5 working days.

4.7 Vexatious or Malicious complaints

- The complaints handling process will provide protection and support to a person or service where it is deemed that a complaint has been made without sufficient grounds or with the conscious desire to cause harm to that person or service.
- Aspire views the making of a malicious or vexatious complaint against any staff member with the utmost seriousness and any such complaints, found to be malicious or vexatious may be referred to the Garda Authority.
- If a complaint is found to be vexatious or malicious Aspire will not pursue the complaint any further.
- Anonymous complaints will not normally be investigated as there is always 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. In particular, anonymous complaints about an employee of Aspire cannot be investigated as this is contrary to the rights of the employee concerned.
- Complainants must provide contact details when making a complaint against Aspire to enable appropriate validation and investigation of that complaint.
- If a complainant makes a complaint in confidence, the identity of the complainant will only be known to the recipient of the complaint and the Complaints Officer, however in order to carry out a full and proper investigation of the complaint, the complainant may have to give consent to have their identity disclosed.
- Details of anonymous complaints will be forwarded to the Service Provider for recording and for appropriate consideration.

4.8 Advocacy

4.8.1 Citizen Information (Comhairle 2005) defines advocacy as a means of empowering people by supporting them to assert their views and claim their entitlements and where necessary, representing and negotiating on their behalf.

- 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.
- Advocacy services may be offered by Aspire to service users who wish to make a complaint and who otherwise would find it difficult or impossible to make such a complaint themselves or to source advocacy services themselves.

4.9 Redress

4.9.1 An effective complaints system which offers a range of timely and appropriate remedies will enhance the quality of service to the service users/families of Aspire. It will have a positive effect on staff morale and improve Aspire's relations with the public. It will also provide useful feedback to Aspire and enable it to review current processes and procedures which may be giving rise to complaints.

4.9.2 Redress will be consistent and fair for both the complainant and Aspire.

4.9.3 Aspire 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 claimant personally. 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

4.10 Annual Report to the HSE

4.10.1 A process of monitoring and evaluation will be implemented with the complaints process to ensure it is adhered to and that complaints are managed appropriately.

4.10.2 Aspire will collate all written complaints and complaints that are dealt with informally to review trends, with a view to informing Quality and Service improvements and will provide the HSE with a general report on the complaints received during the previous year indicating:

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

5.0 Procedures

5.1 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 and quickly.
- Resolution is reached when the complaint has been resolved to the satisfaction of the complainant, at the point of contact.

- Where a complaint is unresolved, it is the responsibility of the staff member, to inform the Service Manager who will manage the complaint thereafter.

5.2 Informal Resolution

5.2.1 All written complaints or verbal complaints that can not be resolved locally are dealt with by the Services Manager for resolution by informal means.

5.2.2 On receipt of the complaint, the Services Manager member will consider the complaint to check its validity and how to proceed with the complaint as follows:

- a. The complaint cannot be dealt with using this policy and must either be referred to the appropriate body for investigation or returned to the complainant with an explanation as to why the complaint cannot be investigated
or
- b. Having regard to the nature and the circumstance of the complaint, he/she will seek the consent of the complainant and any other person to whom the complaint relates to find an informal resolution of the complaint. Mediation may be used to attempt resolution of the complaint at this stage if both parties agree.
or
- c. Due to the seriousness and complexity of the case, the Service Manager will not deal with the complaint but will forward it to the Provider Nominee, to conduct a formal investigation of the complaint.
or
- d. The complaint is anonymous and will be recorded as such

She will complete the Aspire Complaints Notification Form and submit it to the Provider Nominee for recording.

5.2.3 Where there is resolution of a complaint to the complainant's satisfaction, the outcome will be reported to the Provider Nominee by email

5.2.4 Where a complaint is unresolved, it is the responsibility of the Service Manager to inform the Provider Nominee who will manage the complaint thereafter.

5.3 Formal Resolution

On receipt of a complaint that warrants a formal investigation the Service Manager/ Provider Nominee will manage the resolution of the complaint. He/she may draw on appropriate expertise, skills, witnesses, etc as required to assist with the investigation. Staff have an obligation to participate in and support the investigation of any complaint where requested.

He/she will record the status of the complaint on a Complaints database.

- 5.3.1 The Service Manager/Provider Nominee will formally acknowledge the complaint in writing within 5 working days.
- 5.3.2 The Service Manager/Provider Nominee will endeavour to carry out the investigation within 30 working days of acknowledgement of the complaint or update the complainant within 30 working days of acknowledgement of the complaint and every 20 days thereafter.
- 5.3.3 The investigation will involve:
 - a. Interview/s with the complainant.
 - b. Interview/s with other relevant parties.
 - c. Documentation of interviewsAll parties interviewed will be given the opportunity to have an advocate or third party present at any meeting.
- 5.3.4 A report will be created by the Service Manager/Provider Nominee outlining the findings of the investigation and the recommendations for resolution, which may include mediation.

The report will not contain a finding adverse to a person, without first having afforded the person concerned the opportunity to consider the findings or criticism and to make representations in relation to it.
- 5.3.5 This final report, outlining the implementation plan for resolution of the complaint, is circulated to the complainant, the Director of Services and other relevant third parties, and the parties about whom the complaint was made.
- 5.3.6 Having reviewed the report, agreement around the implementation of the Recommendations will be sought by the parties involved.
- 5.3.7 Where the complainant is dissatisfied with the outcome, he/she may apply to the HSE for a review of the recommendations.
- 5.3.8 On completion the Service Manager/Provider Nominee will complete the complaints database.

5.4 Independent Review

- 5.4.1 If the complainant is not satisfied with the outcome of the Aspire Complaints Process he/she may seek a review of the complaint by the Ombudsman for adults.
- 5.4.2 Aspire must inform the complainant that they have a right at all times to have their complaint reviewed by the Ombudsman for adults. However, they must be made aware that the Ombudsman will, in most cases, require that the HSE complaints management process be exhausted before they will initiate a review of the complaint.

Address: 18 Lower Leeson Street, Dublin 2.

Phone: +353-1-639 5600

Lo-call: 1890 223030

Fax: +353-1-639 5674

Email: ombudsman@ombudsman.gov.ie

5.4.3 Alternatively the complainant may contact Health Information and Quality Authority, George's Court, George's Lane, Dublin 7. Phone: (021) 240 9646 or via email to concerns@hiqa.ie. HIQA do not have the power to investigate individual complaints. But they will use the information you share with them to decide whether the service is meeting the national standards and regulations, and to check whether the service is meeting the needs of the people who live there. If they find they are not, we will take action to make sure that services are improved.

