



**Control Information:**

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**Revision History**

<b>Revision</b>	<b>Issue Date</b>	<b>Revision Description</b>
1.0	28/08/2014	Revised
2.0	01/03/2019	Incorporate HSE ‘Your Service, Your Say’
3.0	01/11/2022	Updated to comply with new draft standards & regulations



## **1.0 Policy**

Fingal Home Care welcomes any comments, complaints and compliments from service -users, family and/or representative. Effective management of complaints is seen as an opportunity to improve service and quality of care delivery to service-users

Service-users, family members and/or representatives are made aware of their right to make a complaint. They will be made aware that any complaint made will not affect the care provided to the service -user. Fingal Home Care will consider any expression of dissatisfaction with service provided as a complaint. A complaint may be verbal or written

As a service provider to the HSE, Fingal Home Care manage complaints in accordance with Part 9 of the Health Act 2004. The Act in particular sets out the statutory rights of clients of the service and other interested persons to make complaints and have them handled in an open transparent way.

## **2.0 Definitions**

- (a) "action" anything done or omitted to be done;
- (b) "Close relative" in relation to another person means a person who:
  - (i) is a parent, guardian, son, daughter or spouse of the other person, or
  - (ii) is cohabiting with the other person;
- (c) "Complaints Officer" a person designated by Fingal Home Care for the purpose of dealing with complaints under this policy
- (d) "complaint" an expression of dissatisfaction
- (e) "complainant" Person(s) making the complaint (HSE) 2008

## **3.0 Who May Make a Complaint**

Any person who is being or was provided with a home care / help service by Fingal Home Care or who is seeking or has sought provision of such service may complain in accordance with this policy about any action of Fingal Homecare that:

- (a) it is claimed does not accord with fair or sound administrative practice, and
- (b) adversely affects the person by whom or on whose behalf the complaint is made.

For this policy, an action does not accord with fair and sound administrative practice if it is:

- (a) taken without proper authority,



- (b) taken on irrelevant grounds,
- (c) the result of negligence or carelessness,
- (d) based on erroneous or incomplete information,
- (e) improperly discriminatory,
- (f) based on undesirable administrative practice, or
- (g) in any other respect contrary to fair or sound administration.

If a person entitled under this section to make a complaint is unable to do so because of age, illness or disability, the complaint may be made on that person's behalf by:

- (a) a close relative or carer of the person,
- (b) any person who, by law or by appointment of a court, has the care of the affairs of that person,
- (c) any legal representative of the person,
- (d) any other person with the consent of the person, or
- (e) any other person who is appointed as prescribed in the regulations.

If a person who would otherwise have been entitled under this section to make a complaint is deceased, a complaint may be made by a person who, at the time of the action in relation to which the complaint is made, was a close relative or carer of that person.

#### **4.0 Right to Privacy and Confidentiality of Parties Involved**

- (a) All information received and investigated will be treated in a confidential manner and meet the requirements of the Data Protection Act 1988, the Data Protection (Amendment) Act 2003, the General Data Protection Regulation (GDPR) (EU) 2016/679 and the Freedom of Information Act 2014 regarding any service-user, employee, or any other person.
- (b) When a complaint is made on behalf of a third party, Fingal Homecare will endeavour to ensure that the complaint is being made with the consent of the third party.

#### **5.0 Responsibility**

All staff are aware that they have a duty to report any concerns or complaints raised to their line manager

#### **6.0 Time Limit for Making Complaints**

A complaint must be made within the specified period or any extension of that period.

The specified period for a complaint to be lodged is 12 months after, but not later than:

- (a) the date of the action giving rise to the complaint, or



- (b) if the person by whom or on whose behalf the complaint is to be made did not become aware of that action until after that date, the date on which he or she becomes aware of it.

Fingal Home Care Complaints Officer may extend the time limit for making a complaint if special circumstances are deemed appropriate to do so.

## **7.0 Receiving and responding to Complaints**

7.1 All service users are provided with an information booklet which outlines the procedure for making a complaint and contact details of Fingal Home Care

7.2 Complaints may be made verbally in person or by phone or in writing. However, complaints made against a named member of staff must always be made in writing.

7.3 Where an employee receives a complaint, he / she will notify their line manager in Fingal Home Care immediately who will report it to the Complaints Officer. The person receiving the complaint should record the details in service-users electronic notes

7.4 All complaints, whether made verbally or in writing, will be treated with equal seriousness.

7.5 Any complainant is entitled to have an advocate of his / her choosing to assist in the making of a complaint.

## **8.0 Stages of the Complaints Management Process**

Stage 1 – Local resolution of verbal complaints at point of contact (informal)

Stage 2 – Local investigation of written and serious complaints (formal)

Stage 3 – Internal Review (HSE)

Stage 4 – Independent Review (Ombudsman)

8.1 Upon a complaint being received by a Complaints Officer, he or she shall notify, within 3 working days, the complainant, in writing, that the complaint has been received and outline



the steps that he or she proposes to take in investigating the complaint and the time limits of the investigation.

8.2 The Complaints Officer will inform the complainant in writing, within 3 working days of making the decision / determination, that the complaint will not be investigated and the reasons for it.

8.3 Where the complaint will be investigated, the Complaints Officer must endeavour to investigate and conclude the investigation of a complaint within 30 working days of it being acknowledged.

8.4 If the complaint cannot be investigated and concluded within 30 working days, the Complaints Officer must communicate this to the complainant and the relevant 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 member every 20 days.

8.5 The Complaints Officer must endeavour to investigate complaints within 30 working days. However, where the 30 working days timeframe cannot be met despite every best effort, the Complaints Officer must endeavour to conclude the investigation of the complaint 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.

## **9.0 Initial Action on Foot of All Complaints Received**

9.1 The Complaints Officer or another appropriate member of staff appointed by the General Manager will assess all complaints made to Fingal Home Care

9.2 The General Manager or Complaints Officer may not deal with a complaint that concerns his / her alleged personal behaviour in the matter.

9.3 Complaints alleging inadequate service coverage will be regarded as complaints made against Fingal Home Care, notwithstanding that management will likely have made the



decision to limit a service that has given rise to the complaint. Such complaints may be dealt with by the General Manager, the Board of Directors or the Complaints Officer.

9.4 The Complaints Officer will determine that the complaint is neither a complaint that is excluded under the Health Act 2004 Section 48, nor a complaint that Fingal Home Care should refuse to investigate under the Health Act 2004 Section 50

9.5 The Complaints Officer arranges to talk to the complainant and to try and establish all the circumstances that in the complainant's view have given rise to the complaint.

9.6 In respect of all complaints (verbal and written), the Complaints Officer will document a file note on the complainant's claims.

9.7 If the complaint is a written complaint, the Complaints Officer will endeavour to secure the complainant's signature to the documented file note as being a true and accurate description of the complaint.

9.8 In the event of a complaint being made by a person other than a client, Fingal Home Care will endeavour to ascertain that the client concurs with the complaint being made on his / her behalf.

9.9 In the event that the complaint concerns a named employee(s) of Fingal Home Care, the Complaints Officer will also inform the employee concerned and without prejudice will give him/her the opportunity to explain his / her version of events.

9.10 Any complainant is entitled to have an advocate of his / her choosing to assist in the making of a complaint.

## **10.0 Managing a Verbal Complaint**

The Complaints Officer should:

- (a) immediately write up a file note on the full nature of the complaint
- (b) inform at the same time the General Manager that a complaint has been made
- (c) act to investigate and resolve the complaint or pass the complaint to the HSE

In acting to investigate and resolve a verbal complaint at the point of contact the Complaints Officer will:

- (a) assess if the complaint is reasonable in the circumstances
- (b) if reasonable, assess if it is simple or complex to resolve
- (c) if simple for Complaints Officer to resolve at local level
  - (i) endeavour to correct or modify or resolve the issue



- (ii) inform the complainant of the action taken and from when it will take effect
  - (iii) get back in touch with the complainant some days after the change has been made and see if his or her concerns have been assuaged.
- (d) if complex for the Complaints Officer to resolve
- (i) review with the General Manager (or his or her deputy)
  - (ii) The General Manager will decide on a course of action
  - (iii) contact the complainant and advise what action is being taken and indicate how long it may take
  - (iv) contact the complainant again prior to any change being made and advise him or her what that will be and from when it will take effect
  - (v) contact the complainant after a change has been made and ascertain if the outcome is proving satisfactory or not.
  - (vi) If unsatisfactory continue to attempt to resolve the issue.
- (e) On satisfactory closure of a verbal complaint, update the file note stating how it was resolved.

### **11.0 Managing a Written Complaint**

Written complaints can originate in several possible ways of which the following are examples:

- (a) A verbal complaint that was not resolved in a manner that satisfied the complainant.
- (b) A complainant whose first contact with Fingal Home Care is made in writing.
- (c) A complainant whose first contact is with the HSE who refer the complaint to Fingal Home Care to investigate.
- (d) A complaint made to a public representative who forwards the matter to Fingal Home Care or to HSE.

All written complaints must be forwarded to the Complaints Officer

The Complaints Officer should, as soon as possible but not later than two working days from receipt of complaint, write to the complainant acknowledging receipt of the complaint and advising that he or she will be investigating the complaint.

The Complaints Officer will proceed to investigate the complaint and if the complaint is found to be justified decide a recommended corrective action.

- (a) The target for completion of investigation and production of a recommendation will be 30 days from the receipt of complaints
- (b) The Complaints Officer shall notify the complainant of:



- (i) the target completion date (and any extension thereof)
  - (ii) the scope of the investigation.
- (c) if an extension is required, this may only be granted by the General Manager and shall be for a fixed time.
- (i) the reason for any extension shall be documented by the Complaints Officer and notified to the complainant along with the revised completion date
  - (ii) The complainant shall be notified of the scope of the investigation.
- (d) The Complaints Officer will minute all meetings with individuals and groups during the investigation
- (e) In coming up with a recommendation or recommendations for corrective action, the Complaints Officer shall consult with the General Manager and specifically consider the following criteria:
- (i) check that the recommendation envisaged be allowable considering the restrictions of the Health Act 2004 Section 51
  - (ii) ascertain or offer a judgement as to the complainant's likely acceptance of the recommendation or not.
- (f) The Complaints Officer will then contact the complainant and advise what action is being taken and indicate how long it may take to implement.
- (i) contact the complainant again prior to any change being made and advise him or her what that will be and from when it will take effect
  - (ii) Contact the complainant after a change has been made and ascertain if the outcome is proving satisfactory or not.
  - (iii) If unsatisfactory continue to attempt to resolve the issue.
- (g) On satisfactory closure of a written complaint, update the file note to say how it was resolved.

## **12.0 Matters Excluded from the Right to Complain**

Section 48 of the Health Act 2004 excludes the right of a person 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 judgment by a person acting on behalf of either
  - (i) Fingal Home Care, the HSE or





- (ii) a person who is being or was provided with a home care / help service by Fingal Home Care or who is seeking or has sought provision of such service
- (c) an action taken by Fingal Home Care 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 Fingal Home Care
- (e) a matter relating to or affecting the terms or conditions of a contract of employment that Fingal Home Care proposes to enter into;
- (f) a matter relating to the Social Welfare Acts;
- (g) a matter that could prejudice an investigation being undertaken by A Garda Síochána or the HSE;
- (h) a matter that has been brought before any other complaints procedure established under an enactment of the Oireachtas.

If the complainant is not satisfied with the outcome of the response to their complaint, they may seek an executive review by Board of Directors or the HSE. They may also choose to contact the Office of the Ombudsman. The Ombudsman provides an impartial, independent and free service. The Ombudsman has the legal right to examine complaints regarding Fingal Home Care.

### **13.0 Refusal to Investigate / Further Investigate Certain Complaints**

The Complaints Officer shall not investigate a complaint if:

- (a) the person who made the complaint is not entitled to make a complaint, either on the person's own behalf or on behalf of another;
- (b) the complaint is made after the expiry of the period or any extension of that period.

The 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, the officer:

- (a) is of the opinion that:
  - (i) the complaint does not disclose a ground of complaint provided for in section 46 of the Health Act 2004
  - (ii) the subject-matter of the complaint is excluded by section 48 of the Health Act 2004,
  - (iii) the subject-matter of the complaint is trivial, or
  - (iv) the complaint is vexatious or not made in good faith, or
- (b) is satisfied that the complaint has been resolved.



The Complaints Officer shall, as soon as practicable after determining that he or she is prohibited from investigating a complaint, or after deciding not to investigate or further investigate a complaint, inform the complainant in writing of the determination or decision and the reasons for it.

#### **14.0 Restriction on Recommendations the Complaints Officer may make**

The Complaints Officer may not, following the investigation of a complaint, make a recommendation which would require or cause Fingal Home Care and or the HSE to make a material amendment to the Service Level Agreement between them or to any approved service plan of either body.

If, in the opinion of the Board of Directors of Fingal Home Care, 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.

Pending the outcome of a review, the Board of Directors of Fingal Home Care may suspend the implementation of a recommendation made by the Complaints Officer if satisfied that, in the interests of fair and sound administration, it is appropriate to do so.

#### **15.0 Complaints to Other Bodies Concerning Any Action of Company**

As a service provider to the HSE, Fingal Home Care recognises the right of qualified persons as set out in the Health Act 2004, to raise a complaint directly with the HSE and to have such complaint investigated by that body under its complaint's procedure. Such complaints to be addressed to the HSE Service Feedback Manager, Office of the Chief Officer, CHO DNCC, HSE Offices, Swords Business Campus, Balheary Road, Swords, Co. Dublin, K67 D8H0.

#### **16.0 Reporting of Complaints**

At the end of each calendar year, the General Manager will furnish the Board of Directors with a summary report of all complaints raised during the year with the following data

- (a) Number of verbal complaints received; severity index; number resolved; number withdrawn; number open
- (b) Number of written complaints received; severity index; number resolved; number withdrawn; number open
- (c) Number of complaints concerning Fingal Home Care made to the HSE or the Ombudsman.

The General Manager shall also submit a report to the HSE annually, or more frequently if requested by the HSE, a report providing the following data:

- The total number of complaints received



- The nature of the complaints received
- The number of complaints resolved by informal means, and
- The outcome of any investigation into those complaints



## References

Health Act (2004)

Data Protection Act (1988) and (2003)

General Data Protection Regulation (GDPR) (EU) 2016/679

Health Service Executive Consumer Affairs (2008) *'Your Service, Your Say' The Policy and Procedure for the Management of Consumer Feedback to include Comments, Compliments, and Complaints in the Health Service Executive (HSE)* Health Service Executive

Ombudsman's Act (1980-1984)

Ombudsman for Children Act (2002)