



Complaints procedure for Service users and third parties

WALK POLICY DOCUMENT				
<i>Previous policy name: Complaints</i>				
Rev. No.	<i>Approved by PRC</i>	<i>Approved by WALK Board (if applicable)</i>	<i>Launched Staff members</i>	<i>Operational Period</i>
Rev.6	25/03/14 (name change only)	N/A	25/03/14	March 2014. Review September 2014
Rev 7	08/10/14 (name changes only)	N/A	24/10/14	Review Sept 2016

Definitions:

A **complaint** under the Health Act 2004 is defined as:

"...any action of the Executive or a service provider that - (a) 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".

For the purposes of this Part, 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.

An act of mistreatment reported as a complaint must be treated in line with Policy on Acts of Mistreatment – Abuse, Neglect and Exploitation of WALK.

The **Complaints Officer**, as defined by the HSE, "is a person designated by the HSE for the purpose of dealing with complaints made to it in accordance with procedures established under section 49 (1) of the Health Act 2004 or a person designated by a Service Provider with whom the HSE has an arrangement under section 38 of the Health Act 2004 or given assistance under section 39 of the Health Act 2004. (You're Service, Your Say, HSE 2008).

The complaints officer for WALK is nominated by the CEO of WALK. This person will deal with complaints that reach stage two (outlined below) and will also be responsible for monitoring and evaluating complaints made to the organisation.

The Complaints Officers for WALK are the assistant psychologists. 1 Longmile Road, Walkinstown, Dublin 12. Telephone (01) 429 0058.

Clinical Judgment is defined as a 'decision made or an opinion formed in connection with the diagnosis, care or treatment of a patient'. (Health Act 2004)

Policy:

It is the policy of WALK to provide a transparent process for complaints made against the organization and to record all complaints made in line with legislative provision provided in the Health Act 2004.

Purpose:

The purpose of this document is to provide information to staff on the procedure for dealing with complaints in health and social care services and also to provide guidelines for staff to deal with a verbal complaint that is made to them.

There is no policy that guarantees any foolproof method of dealing with a complaint but in all cases staff should use their common sense and good listening skills to be effective in ensuring that most complaints can be dealt with at the first point of contact.

Scope:

This policy affects any person, excluding staff members, who may wish to make a complaint about WALK.

This policy does not cover staff members who have a complaint to make on their own behalf about WALK. Staff wishing to make a complaint on their own behalf about WALK should consult the Grievance Procedure for Staff on the website and in the policy folder located in every service location.

An accessible version of this policy, specific for service users in WALK, is available throughout the organisation.

Procedure for dealing with complaints:

Who can make a complaint?

Any person who is being or was provided with a service by WALK or any person who is seeking or has sought provision of a service of WALK may make a complaint under the complaints procedure.

How complaints can be made:

A complaint under this policy can be made through whatever means the person wishes to communicate, this may be verbally, through use of any assisted language programme, sign language or through written means including email, fax or letter.

A complaints form is attached to the end of this policy. The complaints form is freely available throughout the service and on the website www.WALK.ie. A service user, or any other person entitled to make a complaint under this procedure, can do so by themselves or with the aid of an advocate and/or a staff member.

Advocacy:

Any person who wishes to make a complaint is entitled to appoint an advocate. All service users of WALK may avail of an independent advocacy service in line with Advocacy Guidelines of WALK.

A service user, or any other person entitled to make a complaint under this procedure, does not have to appoint an advocate.

Making a complaint on behalf of another person:

Any person can make a complaint on behalf of a service user or another person who is entitled to make a complaint under this procedure, provided they have, where possible, that person's consent to make that complaint. This means that any friend, family member, advocate or staff member can make a complaint on behalf of a service user or another person who is entitled to make a complaint under this procedure.

It is preferable that a person makes a complaint on their own behalf; however, WALK recognises that a person making a complaint may feel uncomfortable and accepts that it may be better for the person's mental health to have the complaint made on their behalf. When investigating a complaint made on behalf of a person, WALK will endeavor to ensure that there is consent of the person on whose behalf the complaint is made.

If requested by the complainant, a staff member/ Complaints Officer may provide assistance to the complainant to make a written complaint. The staff member should encourage the person to stick to the facts of the issue in as far as they believe them to be true.

Stages of the complaints management process:

The HSE Consumer Affairs Division has offered guidance and "Procedures for the Management of Complaints in the HSE" in "Your Service Your Say". This document explains how complaints received should be dealt with by staff in the organisation. The Complaints procedure of WALK provides an overview of the procedure for dealing with complaints however further detail on the process is available in "Your Service, Your Say" or by contacting the Complaints Officer. Please see appendix one for a process flow chart of the complaints management process as outlined in the HSE Complaints Policy and Procedures manual.

There are different stages for managing complaints received by WALK. The stages are:

- Stage 1 – Local resolution of verbal complaints at point of contact (Informal)
- Stage 2a – Local level resolution with Complaints Officer (Informal)
- Stage 2b – Local investigation of written and serious complaints (Formal)
- Stage 3 – HSE Review (Formal)
- Stage 4 – Independent Review (Ombudsman)

Timeframes for making complaints:

The Health Act 2004, Section 47 outlines the timeframes that will determine if a complaint can be made using this process.

• **Time Limits for making a complaint**

The Complaints Officer 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

The Complaints Officer may extend the time limit for making a complaint if in the opinion of the Complaints Officer 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. The Complaints officer may seek appropriate clinical judgment in relation to this.
- Where extensive support was required to make the complaint and this took longer than 12 months

The Complaints Officer must notify the complainant of decision to extend / not extend time limits within 5 working days of the complaint being received.

Items that cannot be resolved through the Complaints Policy and Procedure (as per Part 9 of the Health Act 2004):

- Something that is or has been subject to legal proceedings of a court or a tribunal;
- A matter solely related to the exercise of clinical judgment by a person acting on behalf of WALK.
- An action taken by WALK solely on the advice of a person exercising clinical judgment acting on behalf of WALK.
- A matter relating to the recruitment or appointment of an employee by WALK.
- A matter relating to the terms or conditions of a contract of employment that WALK intends to enter into.
- A matter relating to Social Welfare Acts.
- A matter that could be the subject of an appeal under section 60 of the Civil Registration Act 2004;
- A matter that could prejudice an investigation being undertaken by an Garda Síochána;
- A matter that has been brought before any other complaints procedure established under the law.

WALK will endeavor to deal effectively and satisfactorily to all parties concerned when a complaint is made. This may be done through the complaints procedure or through an alternative process or by referring the matter to the appropriate personnel, for example, Human Resources.

Anonymous Complaints:

Anonymous complaints on their own cannot lead to a formal investigation, as there is always the possibility that they are vexatious. However, details of anonymous complaints will be forwarded to the Complaints Officer and Service Managers to ensure appropriate consideration.

Managing Complaints

Guidance on acknowledging a complaint

Stage one: Local resolution of verbal complaints at point of contact (informal).

For the most part complaints are made verbally. In cases where complaints are made verbally by service users to staff, the staff member should deal with it as promptly as possible and in line with low arousal non aversive techniques outlined by the Policy on positive behavior support of WALK to help ensure that a complaint does not escalate to a challenging behavior incident/episode.

All verbal complaints whether made by a service user or another person should be dealt with by the recipient of the complaint in a respectful manner and the complainant should be given the individual attention of the recipient

It is important to note that in most cases the complaint being made is not aimed directly at the person who is receiving the complaint but rather about the organisation in general, therefore, it is important that the recipient of the complaint does not attempt to get angry, argumentative or take a complaint personally.

The recipient of the complaint should employ good communication skills and be helpful towards the complainant. The recipient of a complaint should not accept or take offense at personal abuse or aggressive behavior by a person making the complaint.

Guidance provided by the HSE on dealing with aggressive callers is available on the staff only section of the website www.WALK.ie.

The HSE recommends the use of the LISTEN approach for persons receiving verbal complaints:

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.

Sympathise:

Empathise and acknowledge the feelings of the complainant.

Expression of regret or apology:

Research indicates that an early expression of regret or apology can minimise the possibility of a verbal complaint becoming a formal written complaint.

However, in some circumstances it is important that a staff member does not apologise, or as such, accept blame, for a situation that has not been caused by the organisation. 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 the Complaints Officers for appropriate [investigation and] management.

Thank the person

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

Explain:

Explain to the complainant that there will be no negative repercussions because they have made the complaint in good faith.

Now Act: Assess the verbal complaint:

Once a verbal complaint is received by a staff member in WALK, 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 of the complaint. The staff member can then use this information to assist them in determining if the complaint should be resolved at the point of contact or if the complaint should be referred to the 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.

Determine the appropriate options for the management of the complaint:

The person receiving the complaint must determine the most appropriate process for the management of the complaint. These options are:

- 1) The complaint is received by a staff member who determines that it is appropriate to manage the complaint at the point of contact with a view to resolving the complaint.
- 2) The complaint is received by or escalated to the Complaints Officer who determines that the complaint may be managed with a view to resolution at the point of contact and links with the relevant staff member, or where appropriate the relevant Service Manager, whichever can most appropriately manage the complaint.
- 3) The staff member/ Service Manager/ Complaints Officer who receives the verbal complaint decides that the complaint cannot or should not be resolved by them and advises the complainant to submit their complaint as a formal written complaint for investigation.

Timeframes for the Management of a Verbal Complaint

Every effort should be made to resolve a verbal complaint immediately or within 24 hours of receiving the verbal complaint if it is deemed appropriate to manage the complaint, with a view to resolution, at the first point of contact.

When should a complaint not be managed at Stage 1?

There are a variety of reasons why a complaint should not be managed at Stage 1 of the process. The key reasons include:

- The complaint involves too many issues to resolve at the point of contact.
- The complaint was a result of harm/incident or a near miss and requires further investigation to identify and eliminate the root causes.
- The complaint was as a result of deviations from quality standards that require further investigating to identify the reasons for the deviation and if there are any system improvements required.
- The complaint involves a number of people or a number of locations and involvement of all parties is required to effectively and fairly investigate the complaint.
- A complaint is made of an allegation of harassment, sexual harassment, abuse or bullying. This must be escalated in the appropriate channels as described in the policy on Mistreatment, Abuse, Neglect, and Exploitation; and the policy on Harassment, Sexual Harassment and Bullying. Please consult these policies for further information on dealing with any allegation of the above-mentioned nature.

Complaints that cannot be resolved at Stage 1

If it is not possible to resolve the complaint to the satisfaction of the complainant at the first point of contact, the person receiving the complaint must advise the complainant:

- Of the reasons why the complaint cannot be resolved at the point of contact
- That they may submit the complaint as a formal written complaint
- Of the process for submitting a formal written complaint
- What will happen with their complaint?

Recording Verbal Complaints

It is the preference of WALK that the Complaints Officer reports on trends in relation to complaints to the Quality Measures Implementation (QMI) and submits complaints that involve rights restriction for service users to the Human Rights Enhancement Committee (HREC), even those that can be resolved at local level. The aim of this is to aid organisational learning about

best practice within the organisation and to afford due process to all persons who have rights restrictions imposed on them by the organisation. This means that supports and guidelines can be written into policy and training be provided which may help to prevent similar situations, to that reported, from happening in the future.

Where a service user wishes that a complaint goes no further than the local manager at their service location, this should be respected. However, it should be explained to the service user that if a resolution is outside the direct control of the Line Manager that by not allowing the complaint to progress further there may not be a satisfactory resolution to the problem. Again, in some circumstances the duty of care of an employee overrides the persons consent to have the complaint further discussed, for example, an Act of Mistreatment as defined in the organisation's policy on Mistreatment – Abuse, Neglect and Exploitation must be discussed with the employee's line manager. The service user may at any stage, within the 'timeframes for making a complaint' outlined above, change their mind and give consent for the complaint to be reported to the Service Manager or the Complaints Officer as a Stage two complaint.

Best practice complaints management indicates that both verbal and written complaints should be documented.

Verbal complaints can be recorded on the verbal complaints record form for each service user or on the complaints form. All verbal complaints should be recorded whether resolved at stage one or not. Level one complaint should also be recorded whether the complainant consents to the complaint being discussed further or if the complaint is made anonymously. In the latter two cases the nature of the complaints should be recorded and submitted to the Complaints Officer once per month. The social care leaders for Residential Service and the day services manager for the Day service are responsible for keeping the Complaints Officer updated on a monthly basis of all complaints made in their service location.

If the situation has been resolved, to the satisfaction of the complainant, this should be stated clearly and an outline of the measures taken to achieve the resolution noted on the form or the daily contact sheet.

The Complaints Officer will compile these reports to comply with the Health Act 2004 and regulations made under it, and report into the HSE. The recordings will also be reported into the Quality Measures Implementation Committee and, in cases where there is clear impact on the rights of the service user, forward the case to the Human Rights Enhancement Committee.

Summary of Complaints made at Stage One.

The Complaints Officer must ensure that the local resolution process upholds and protects the rights of staff members, the organisation and the complainant.

Complainants may want an undertaking that action will be taken to prevent the problem recurring. Complaints Officers must ensure that complaints received are dealt with appropriately and that any learning from complaints resolved at an early stage is incorporated in to the learning for the organisation.

Some complaints, however, cannot be resolved at the point of contact and will require management and investigation at Stage 2 of the process.

Stage 2a - Local level resolution with Complaints Officer (Informal)

The Complaints Officer must consider whether it would be practicable, having regard to the nature and the circumstance of the complaint, to seek the consent of the complainant and any

other person to whom the complaint relates to finding an informal resolution of the complaint by the parties concerned.

Mediation may be used to attempt resolution of the complaint at Stage 2 if both parties agree.

Where informal resolution is not successful or is deemed inappropriate, the Complaints Officer will initiate a formal investigation of the complaint as outlined in stage 2b below.

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

When a formal complaint comes in to the Complaints Officer then the Complaints Officer must inform the Director of Service before an investigation gets underway.

If the situation has not been resolved, the Complaints Officer, or a person who the Director of Services designates (the investigator) becomes responsible for the achievement of a resolution.

The complaint form will be responded to, in writing, by the investigator within five working days.

This response will outline the steps that the investigator will take to investigate the complaint. It will also outline the amount of time that will be spent investigating the complaint before the investigator will discuss the complaint further with the complainant and/or their representative.

Generally, the timeframe for an investigator investigating a complaint should be no longer than 30 working days. However, if it is likely to be longer than 30 working days the investigator must let the complainant know how much longer the investigation will take. The investigator must also update the complainant of the progress being made at least every 20 working days.

If a complaint is likely to take longer than six months to investigate the Director of Services must explain to the complainant why the investigation is taking this length of time. He/she must also outline other options open to the complainant, for example, the Ombudsman. The Director of Services will encourage the complainant to stay within the local WALK process.

If a resolution is achieved to the satisfaction of the complainant then the person investigating the complaint should report this to the Service Manager, the Director of Services and the Complaints Officer within two weeks of the date on the report.

The Human Rights Enhancement Committee (HREC) meets generally on a monthly basis. The Complaints Officer will forward any complaints that constitute, in full or in part, a rights restriction to the committee for review. However, where the Complaints Officer believes that forwarding information related to the rights restriction to the HREC may jeopardise any investigation, the Complaints Officer is entitled to defer sending the rights restriction through until the complaint has been investigated.

Stage 3 – HSE Review:

If the complainant is not satisfied with the outcome of stage two they may apply for an internal review to the Head of Consumer Affairs, Health Service Executive, Oak House, Millennium Park, Naas, Co. Kildare. This application for a HSE review must be made, in writing, within 30 working days of the report of the investigation being sent to the complainant. The review must be conducted within 20 working days of receipt of request for review

The Head of Consumer Affairs will examine the request for review and appoint a Review Officer if appropriate to carry out the review of the complaint.

Review Officer(s) will review the processes used to carry out the investigation of the complaint and the findings and recommendations made post-investigation.

The Review Officer(s) will uphold, vary or make a new finding and recommendation.

The Review Officer 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.

A complainant who has requested a review may make written representations in support of his or her complaint and such representations will be considered by the Review Officer.

The Review Officer will be independent, in as far as is reasonably practicable, of the service(s) about which the complaint was made and must not have had any part of any prior investigations into any complaints they review and must not have any conflicting interest in the subject matter of the complaint.

The Review Officer(s) may:

- Uphold the original recommendations, vary or make new recommendations
- Recommend that the investigation be repeated locally by Complaints Officer(s) independent of the preliminary investigation
- Recommend re-investigation of the complaint by Complaints Officers at an Area/National level.

Stage 4 - Independent Review (external appeal):

If the complainant is not satisfied with the outcome of an investigation into their complaint or if the complainant is not happy with the steps taken in the process for the investigation then they are free to refer the complaint to the Ombudsman at the following address:

Office of the Ombudsman
18 Lower Leeson Street,
Dublin 2
Telephone: (01) 639 5600
Lo-Call telephone number: 1890 223 030
Fax: (01) 639 5674.

Vexatious Complaints:

When a complaint is being investigated or has been investigated and the complaint is believed to be vexatious in nature, the organisation will deal with the individual service user taking into consideration the person's history and behaviours in general. In the case that a vexatious complaint has been made by a person not availing of WALK services the organisation will review the content of the claim and may begin with legal proceedings against the person, depending on the seriousness of the content of the complaint.

Redress:

WALK will endeavour to 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.

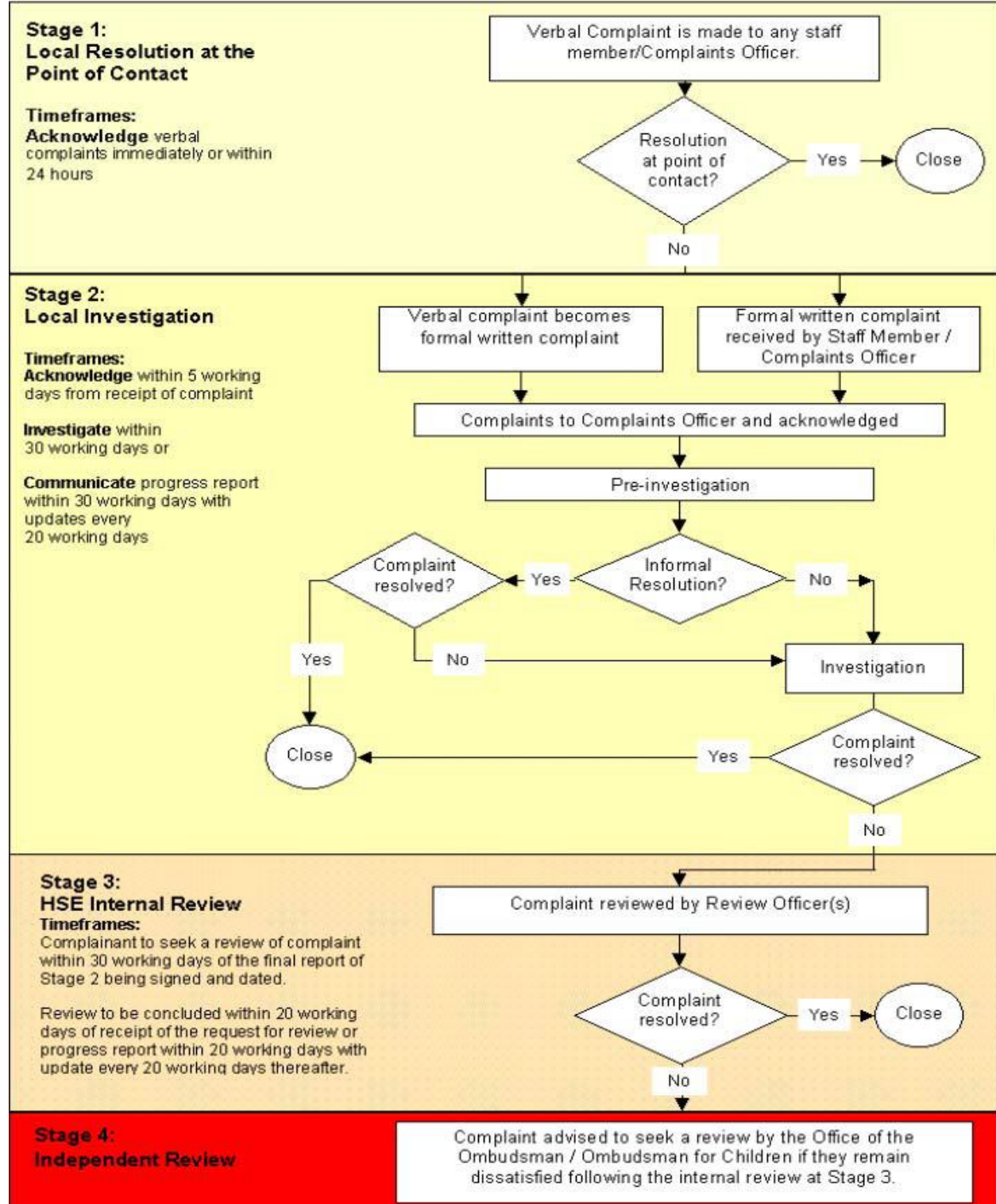
Here is a list of the different types of redress:

- A verbal apology
- A written apology
- An explanation

- A 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
- Waiver of debt.

The investigator can make a recommendation that policies, procedures and guidelines in place in WALK are amended to try to ensure that an action that gave rise to the complaint does not happen again.

General Overview of HSE Complaints Management Process





Complaints Form for

This complaint form should be completed by any person who has a complaint about WALK.

A service user can ask a staff member to help them complete the form.

The complaint form should be given to Complaints Officer. The assistant psychologists are the complaints officers for WALK.

Name of service user making complaint:

Name of staff member who helped you fill in this complaint form:

Role of staff member who helped you complete this form:

Please give a description of why you are making this complaint?
(You can attach another sheet to this complaint form if you need to give more information about the complaint)

Is there anything that has been done already about the complaint?

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What could be done in WALK to resolve this complaint?

Signed by: (Person making complaint)	Date:
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Please return this completed form to Complaints Officer, WALK, 1 Longmile Road, Walkinstown, Dublin 12

This section should only be filled in by Assistant Psychologist, Complaints Officer(s).

Reference:

Recommendations:

Date sent to Quality Department:

Date sent to Human Rights Enhancement Committee: (Permission by complainant to forward details of case to HREC): Y N
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