



Promoting Inclusion for People with Intellectual Disabilities

Managing Complaints Policy

Kare Policy Document.

Policy Owner: Complaints Officer.

Rev. No.	Approved by the OMT	Approved by Kare Board	Launched at Heads of Units	Operational Period
Rev. 1	14 June 2006 (Heads of Units)	27 June 2006		June 2006 – April 2009
Rev. 2	March 2009	March 2009	May 2009	May 2009 – March 2012
Rev. 2.1	March 2012	Not applicable (Overview diagram added)	Informed of change by email	March 2012 – February 2015
Rev. 3	January 2015	January 2015	February 2015	February 2015 – April 2015
Rev. 3.1	Not applicable (Amended to update reference re Safeguarding policy and Protected Disclosures)		Informed of change by email	April 2015 – Oct 2017
Rev. 4	October 2017	October 2017	November 2017	Nov 2017 – Aug 2019
Rev. 4.1	May 2019	July 2019	Sept 2019	Sept 2019 – Mar 2022
Rev. No.	Approved by the Policy Management Committee	Approved by Kare Board/Sub-Committee	Launched at Heads of Units	Operational Period
Rev. 5	Mar 2022	March 2022	April 2022	April 2022 -
Rev 6	March 2025	April 2025	April 2025	April 2025 -

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Section 1: Policy

1.1 Background to this Policy

This policy was developed to meet Kare's responsibility to ensure that people who use the service, their families and members of the public are aware of their right to make a complaint and their rights throughout the complaints management process.

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

- *Health Act 2004 Part 9*
- *Health Act 2004 (Complaints) Regulations 2006*
- *Health Act 2007 Part 13*
- *Health Act 2007 (Care and Support of Residents in Designated Centres for persons (Children and Adults) with Disabilities) Regulations 2013*
- *National Standards for Residential Services for Adults and Children with disabilities*
- *Freedom of Information Acts 2014*
- *Data Protection Acts 1988/2003/General Data Protection Regulation (GDPR enacted May 2018)*
- *Ombudsman's Act 1980-1984*
- *Ombudsman for Children's Act, 2002*

This policy is developed in line with Your Service, Your Say, the Policy for the Management of Consumer Feedback to include comments, compliments, and complaints in the HSE.

Other Kare policies and procedures which are related to and compliment this policy are:

- *Child Protection and Welfare Policy*
- *Safeguarding of Vulnerable Persons at risk of abuse*
- *Trust in Care Policy*
- *Protected Disclosure/Good Faith Reporting Policy*
- *Dignity at Work*
- *Grievance procedure*
- *Data Protection Record Management Policy*
- *Open disclosures*

1.2 Aim of this Policy

The aim of this policy is to outline how people can make a complaint, voice a concern and to ensure that any complaints/concerns received are dealt with in a fair, transparent and appropriate way and resolved to the satisfaction of the complainant where possible.

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.***

1.3 Scope of this Policy

This policy may be used any person, excluding staff members, who may wish to make a complaint about Kare. This includes a person who is being or was provided with a service from Kare or who has sought provision of such service, Third party or family member.

The person may complain in accordance with the procedures established under this policy about any action of the Service that:

- (b) it is claimed, does not accord with fair and sound administrative practice and
- (c) 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 Kare however, the Health Act 2004 details a number of complaints that are not included under Part 9 of the Health Act. (Appendix 1)

This policy does not cover staff members who have a complaint to make on their own behalf about Kare. Staff wishing to make a complaint on their own behalf about Kare should consult the Grievance policy for Staff.

An accessible version of this policy, specific for people supported by Kare, is available in each location.

Type of issue/concern/complaint	Policy to be used
• Allegations of abuse of a child	Child Protection and Welfare Policy
• Allegation of abuse of an adult using Kare's services and supports	Safeguarding of Vulnerable Persons at Risk of Abuse Policy
• Concerns/complaints	Managing Complaints Policy
• Complaints by staff of any inappropriate behaviour of other staff at work	Dignity at Work Policy
• Grievances by staff related to terms and conditions /work practices	Grievance procedure
• Management of records and personal information.	Data Protection / Record Management Policy

Some concerns/complaints received will be addressed using other Kare policies as outlined above.

1.4 Policy Statements

1.4.1 General Policy

- 1.4.1.1. Kare commits to safeguarding the rights and dignity of people who use the service, their families, and staff members in implementing this policy.
- 1.4.1.2 Complaints, concerns, criticisms, or suggestions, whether oral or written will be taken seriously and handled appropriately and sensitively.
- 1.4.1.3 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.
- 1.4.1.4 Kare will communicate with the Complainant throughout the process and endeavour to resolve the complaint to the complainant's satisfaction as close to the point of contact as possible.

- 1.4.1.5 Kare have a designated Complaints Officer, the role of the Complaints Officer is to ensure complaints are appropriately managed. (See Appendix 3 for contact details).
- 1.4.1.6 All information obtained through the course of complaint management will be treated in a confidential manner and in line with current Data Protection (GDPR) and Freedom of Information legislation. 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 of the parties involved.
- 1.4.1.7 Kare staff have an obligation to participate and support the investigation of any complaint where requested.
- 1.4.1.8 Kare commits to providing access to training to all staff to enable them to effectively implement the complaints management policy (on HSELand).
- 1.4.1.9 A copy of the Managing complaints policy will be published on the Kare website and a notice on how to make a complaint displayed in all service locations.
- 1.4.1.10 Kare will ensure that staff carrying out investigations have the appropriate training, experience, and support.
- 1.4.1.11 Kare staff may use the Employee Assistance Programme as a support to deal with personal issues that arise as a result of their involvement in a complaint.

1.4.2 Making a Complaint

- 1.4.2.1. It is preferable that a person makes a complaint on their own behalf; however, Kare recognises that a person making a complaint may feel uncomfortable and accepts that it may be beneficial to have the complaint made on their behalf.
- 1.4.2.2. A complaint can be made in a number of ways including:
- In person
 - By telephone
 - By letter
 - By email

- Through whatever means the person wishes to communicate, this may be verbally, through use of any assisted language programme, sign language etc.

1.4.2.3. Making a complaint on behalf of another person:

Any person can make a complaint on behalf of a person using the services in Kare 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.

1.4.2.4. A complaint can be made to any staff member, manager, CEO or Board of director of Kare. A complaint can be made directly to the complaints officer.

If a complaint is being made about a particular person and the person's name is being given, the person receiving the complaint must ensure that there is a written record of the complaint, giving details such as dates and locations so that the person dealing with the complaint can check the facts of the complaint. The method of communication should be also recorded e.g., gesture, communication device, LAMH.

1.4.2.5. 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.

1.4.2.6. The Complaints Officer will determine if the complaint meets the time frames as set out in Section 47, Part 9 of the Health Act 2004. 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.

- 1.4.2.5 Where a complaint does not meet the time frame of 12 months the Complaints Officer will notify the complainant within 5 working days of the decision to extend/not extend time limits to accepting a complaint.

1.4.3 Acknowledgement of a complaint

- 1.4.3.1 When a complaint has been received, Kare will endeavour to deal with the complaint effectively and efficiently. Complaints being dealt with through formal investigation will be acknowledged within 5 working days and will outline to the complainant, using their chosen method of communication, the steps to be taken in investigating the complaint and the time limits for the completion of the investigation.
- 1.4.3.2 Kare will endeavour to resolve complaints to the satisfaction of the complainant in strict accordance with the process for managing complaints in Kare.

1.4.4. Stages of Managing a Complaint.

There are 4 stages to Kare's Complaints process as follows:

1	Point of Contact/Local Resolution	Verbal complaint resolved at point of contact.
2a	Informal Resolution	Written/Verbal complaint resolved through discussion.
2b	Formal investigation	Written complaint investigated and findings documented in a written report stating outcome i.e., Complaint Upheld/Partially upheld/Not Upheld.
3	Internal Review	Complainant not accepting the outcome of an Investigation can request that Kare carry out a review of the procedures used to manage the complaint.
4	Independent Review	Complainant dissatisfied with outcome of Internal Review, seeks a review by the Office for the Ombudsman/Ombudsman for Children.

1.4.4.1 Stage 1 / Stage 2 a - Kare will make every effort to resolve verbal complaints at the point of contact. Where this is not possible Kare will seek the consent of the complainant to resolve it through informal resolution. This will involve:

- clarifying the complaint
- informing all parties of their right to be accompanied by a support person/an advocate or a third party to any meeting/s held in relation to the complaint
- meeting/s with the complainant giving them an opportunity to give their version of events and to provide evidence/explanations to verify the complaint.
- meeting/s with other relevant parties giving them an opportunity to give their version of events and to provide evidence/explanations in relation to their actions.
- confirming the outcomes/agreement reached in any discussion with the participants
- giving the complainant the opportunity to identify what they would like to happen as a result of making the complaint.
- managing the expectations of the complainant and being clear with complainant about what can and cannot be achieved through the investigation.
- determining the sequence of events leading to the complaint and the root causes of the complaint.
- ensuring any conclusions about the complaint are based on a logical flow to the evidence supporting the complaint.
- affording the person concerned the opportunity to consider any adverse proposed findings or criticism and to make representations in relation to them.

1.4.4.2 Kare may offer Mediation by a mutually agreed 3rd. party to attempt informal resolution of the complaint. Both the complainant and those to whom the complaint relates must agree to using Mediation.

1.4.4.3 Where a complaint cannot be resolved by Informal Resolution the Complaints Officer will, if appropriate, set up a formal Investigation into the complaint. Stage 2b.

1.4.4.4 When the investigation of the complaint is complete the Investigation Team will produce a written report which will include:

- Description of the complaint
- Steps in the Investigation
- Background to the Complaint/Sequence of events
- Findings of the investigation i.e., the outcome of each element of the complaint and whether it is upheld/partially upheld or not upheld. Including an explanation of the judgement
- Recommendations which they consider appropriate
- Appendices as relevant e.g., Notes of Meetings, records etc.

1.4.4.5 The Complainant and others involved in the complaint will be given an opportunity to respond to the Investigation report before it is finalised.

1.4.4.6 Stage 3 - If the complainant does not accept the findings in the Investigation Report, he/she may seek a review of the process used to manage the complaint by applying to Kare's CEO within 30 days of the report being issued. ([See Appendix 3 for contact details.](#))

1.4.4.7 Kare 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. They will inform the Complainant of the outcome.

1.4.4.8 Stage 4 - If the complainant does not accept the outcome of the Internal review, they may seek a review of the complaint by the Ombudsman/Ombudsman for Children. ([See Appendix 3 for contact details](#))

1.4.5. Timeframes involved once a complaint is received by the Complaints Officer in Kare ([See Appendix 4 for Summary Table](#))

1.4.5.1 Where the Complaints Officer determines that the complaint does not meet the criteria detailed in 1.3, 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.

1.4.5.2 Where the complaint will be investigated, the Complaints Officer must endeavour to have the investigation concluded within 30 working days of it being acknowledged.

1.4.5.3 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.

1.4.5.4 The Complaints Officer/Designate must update the complainant and the relevant staff/service member every 20 working days.

1.4.5.5 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.

1.4.5.6 If this timeframe cannot be met, the Complaints Officer/Designate 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. He/she should encourage the complainant to stay with the complaints management process while informing them that they may seek an internal review or apply directly to the Ombudsman for an Independent Review.

1.4.6. Vexatious, Malicious or Anonymous complaints

1.4.6.1 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.

1.4.6.2 Kare 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 An Garda Síochána.

1.4.6.3 If a complaint is found to be vexatious or malicious Kare will not pursue the complaint any further.

1.4.6.4 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 Kare cannot be investigated as this is contrary to the rights of the employee concerned.

- 1.4.6.5 Complainants must provide contact details when making a complaint against Kare to enable appropriate validation and investigation of that complaint.
- 1.4.6.6 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.
- 1.4.6.7 Details of anonymous complaints will be made available to relevant service managers for consideration as appropriate.

1.4.7 Advocacy

- 1.4.7.1 All complainants have a right to appoint an advocate to assist them in making their complaint and to support them in any subsequent processes in the management of that complaint.
- 1.4.7.2 Kare will support people who use the service who wish to make a complaint and who otherwise would find it difficult or impossible to make such a complaint themselves, to source appropriate advocacy services e.g. The National Advocacy Service for People with Disabilities (Telephone: 0761 07 3000.)

1.4.8. Redress

- 1.4.8.1 Redress will be consistent and fair for both the complainant and Kare.
- 1.4.8.2 Kare 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 National relevant policy.

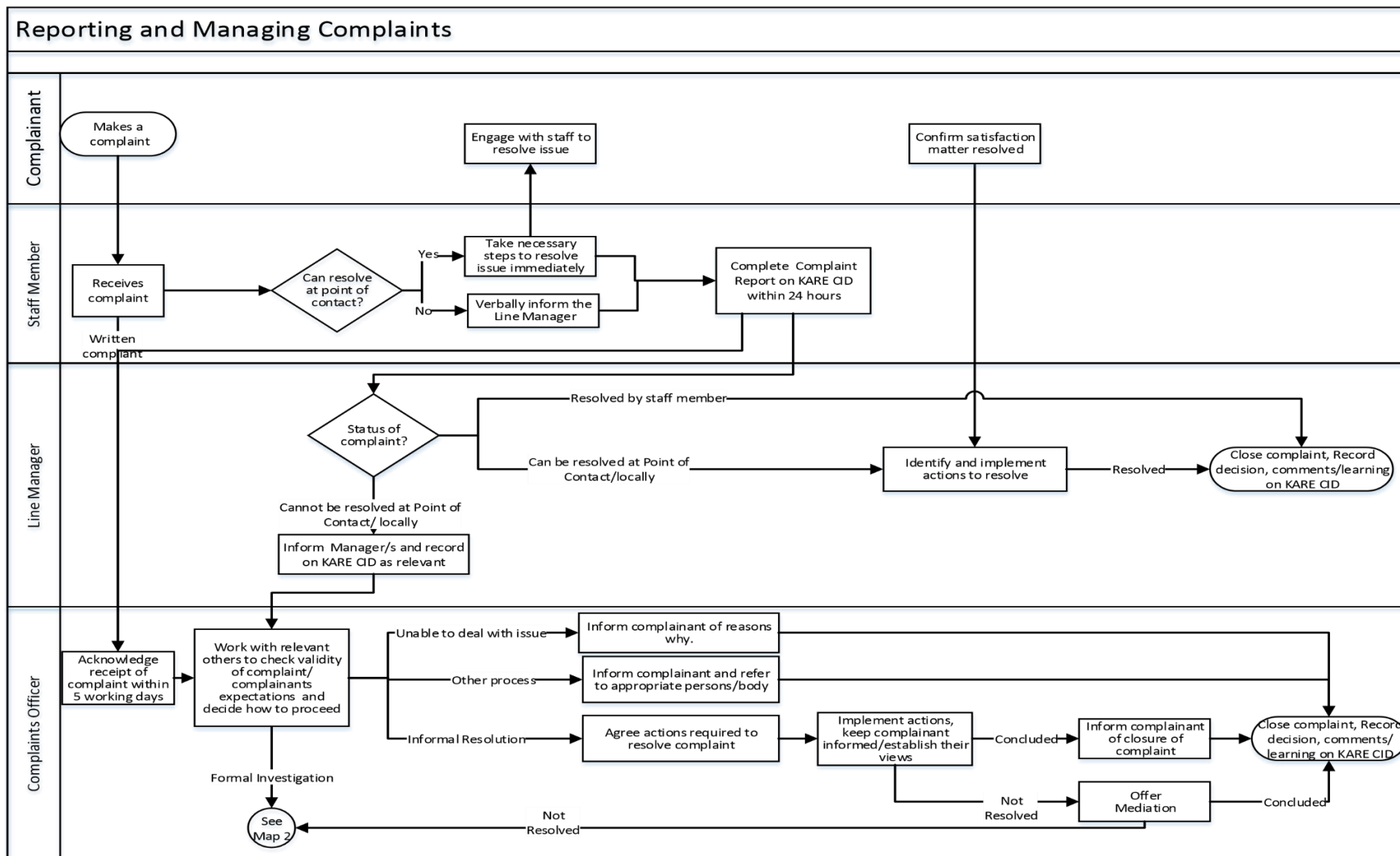
1.4.9 Learning from Complaints

- 1.4.9.1 Kare is committed to learning from complaints and will view each complaint as an opportunity for improvement.
- 1.4.9.2 Managers will monitor the complaints received in their area and ensure that complaints are discussed at staff meetings as appropriate for the purpose of learning and service improvement.
- 1.4.9.3 The Complaints Officer will work with the Safeguarding and Complaints Oversight group to monitor trends with regards to complaints and to review all complaints which are escalated for informal resolution or formal investigation with a view to informing quality and service improvements.
- 1.4.9.4 The Risk, Quality and Safety Sub Committee of the Board of Directors will review the trends in complaints received each quarter and issue a summary report to the Board of Directors.
- 1.4.9.5 Kare will report complaints to the HSE as required in the Service Level Agreement.

1.5 Roles & Responsibilities

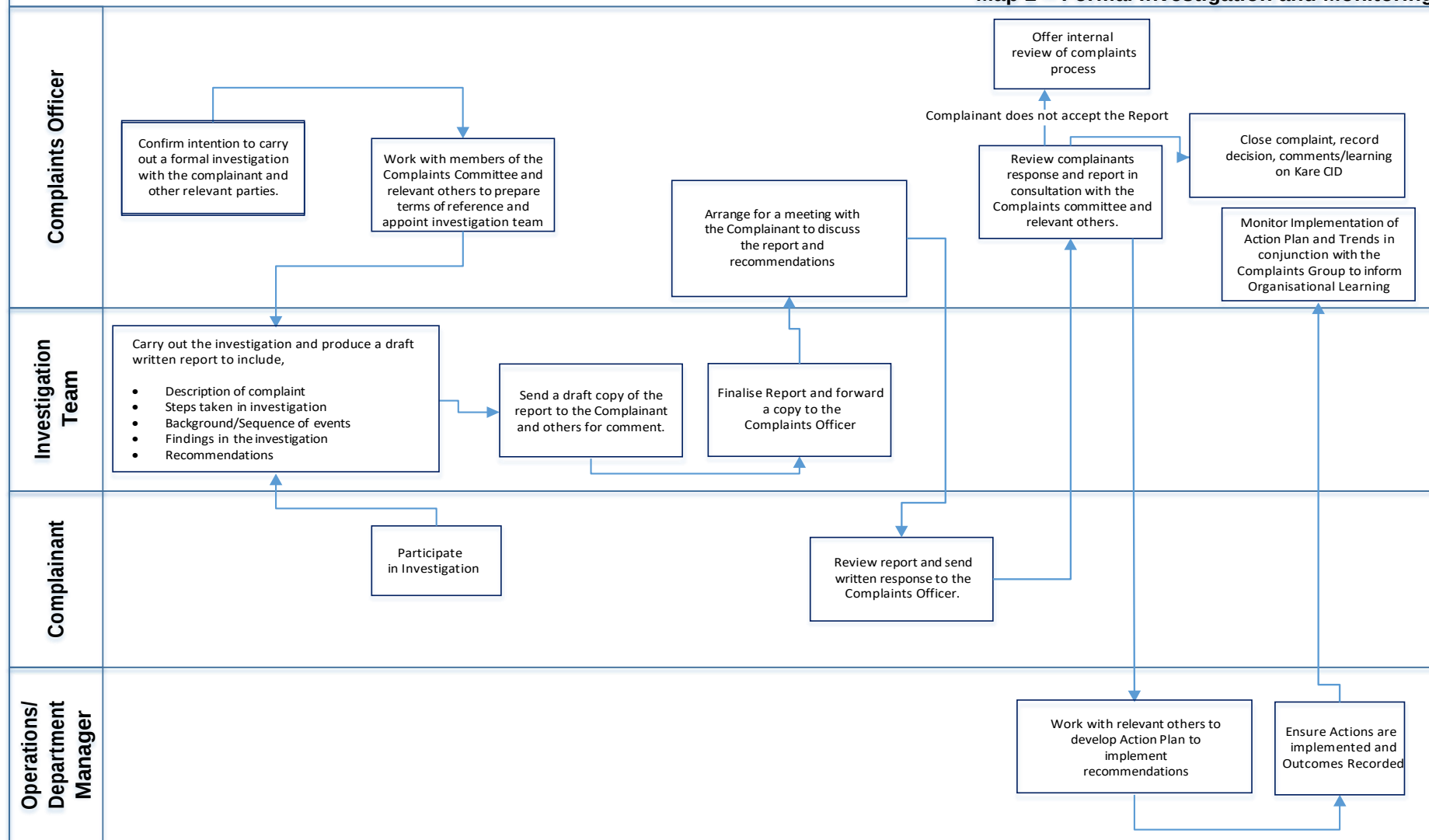
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- 1.5.2 The Line Manager will ensure complaints are reported in line with the process outlined in Section 2 of this policy.
- 1.5.3 Leaders will discuss repeated 'point of contact/local resolution' complaints with their Line Manager to decide if the matter should be escalated to the Complaints Officer for further investigation/informal resolution.
- 1.5.4 The Complaints Officer will ensure all written complaints are managed within the agreed timeframes.

2 Section 2: Process – Reporting and Managing Complaints



Reporting and Managing Complaints.

Map 2 – Formal Investigation and Monitoring



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

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

- (a) a matter that is or has been the subject of legal proceedings before a court or tribunal.
 - (b) a matter relating solely to the exercise of clinical judgement by a person acting on behalf of either the Executive or a service provider.
 - (c) an action taken by the Executive or a service provider solely on the advice of a person exercising clinical judgment in the circumstances described in paragraph
 - (d) a matter relating to the recruitment or appointment of an employee by the Executive or a service provider.
 - (e) a matter relating to or affecting the terms or conditions of a contract of employment that the Executive or a service provider proposes to enter into or of a contract with an adviser that the Executive proposes to enter into under section 24:
 - (f) a matter relating to the Social Welfare Acts.
 - (g) a matter that could prejudice an investigation being undertaken by the Garda Siochana.
 - (i) a matter that has been brought before any other complaints procedure established under an enactment.
- (2) Subsection (1) (i) does not prevent a complaints officer from dealing with a complaint that was made to the Ombudsman or the time limit for making complaints.

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

4 Appendix 2: The Listen Approach

Use the LISTEN approach to assist you when receiving a verbal complaint

Listen:

- Listen carefully to the issues being raised by the complainant

Identify:

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

Summarise:

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

Thank the person

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

Empathise and Explain:

- Empathise and acknowledge the feelings of the complainant.
- Explain to the complainant that there will be no negative repercussions
- Explain what will happen next e.g., you may need to contact your manager.

Expression of regret or apology:

- An early expression of regret or apology can minimise the possibility of a verbal complaint becoming a formal written complaint
- Training for staff must deal with the area of expression of regret and apology. Staff must also be given the skills to recognise when a complaint can or cannot be resolved at first point of contact and when the complaint needs to be referred to Complaints Officer for appropriate management.

Now Act:

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

Note:

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.

5 Appendix 3: Contact Details for Making a Complaint.

Kare's Complaints Officer	Sandra Burke Kare Newbridge Ind. Est. Newbridge Co. Kildare Email: Sandra.burke@kare.ie Telephone: 045 448700
Kare's CEO	Deirdre Murphy Kare Newbridge Industrial Est., Newbridge Co. Kildare E mail: Deirdre.murphy@kare.ie Tel: 045 448700
Office of the Ombudsman	18 Lr. Leeson Street, Dublin 2 Tel +353-1-639 5600 Lo-call: 1890 22303 Fax: 01 639 5674 Website: www.ombudsman.ie
Ombudsman for Children's Office	Millennium House 52-56 Great Strand Street Dublin 1 Tel 01-8656800 Website: www.oco.ie

6 Appendix 4: Summary of Timeframes in Managing a Complaint

Service User / Complainant Timeframes	
To make a complaint	12 months
If Complainant does not wish confidential information to be accessed	5 working days from date of Acknowledgement Letter
Withdraw complaint	At any stage
Request a review of a complaint	30 working days
Refer complaint to Ombudsman	At any stage
All staff	
Respond to request for information	10 working days
All staff at Point of Contact	
Point of Contact Resolution	Immediately / < 48 hours [*] – where possible
Point of Contact Resolution – Line Manager	< 48 hours[*] – where possible
Complaints Officer Timeframes	
Notify Complainant of decision to extend/not extend 12 months' timeframe	5 working days
Complaints Officer Resolution	< 48 hours[*] – if appropriate

If complaint does not meet criteria for investigation – inform Complainant	5 working days
Acknowledgment Letter	5 working days from receipt of complaint
Seeking further information	10 working days
Update Complainant and relevant staff	Every 20 working days after initial 30-day due date
Investigate and conclude (Report)	30 working days from date of Acknowledgement Letter
Conclude at latest	6 months
Reviewer appointed by CEO Timeframes	
Notify Complainant of decision to extend/not extend 30 days' timeframe	5 working days
Review Officer should make contact with Complainant & explain process	< 48 hours * – if appropriate
Acknowledgement Letter	5 working days from receipt of review request
If complaint does not meet criteria for review – inform Complainant	5 working days
Seeking further information	10 working days
Update Complainant and relevant staff	Every 20 working days after initial 20-day due
Investigate and conclude (Report)	20 working days from date of
Complaint – Recommendation(s) Action	30 working days
Review – Recommendations(s) Action Letter	30 working days

***** Two Working Days