

Summary - Introduction of a Patient Safety Complaints and Advocacy Policy

1. Purpose of the Patient Safety Complaints and Advocacy Policy

The Department of Health has commenced the development of a Patient Safety Complaints and Advocacy Policy. It is intended that the policy will set the key principles, priorities and outcomes that will enable health care providers to deliver effective and high quality patient safety complaints and advocacy services and to achieve a nationally consistent approach.

Patient safety focuses on reducing unnecessary harm in healthcare. The establishment of an effective patient safety complaints and advocacy policy aims to minimise that harm through the efficient handling of complaints that is supported by advocacy when needed.

The policy aims to be cognisant of and integrate with key developments across the health system and legislation in relation to patient safety complaints and advocacy. This will ensure a collaborative and integrated approach where services do not leave gaps or overlap.

2. Current Complaints and Advocacy Legislation and Standards

The Health Act 2004 and Health Act (Complaints) Regulations 2006 established a legislative base for health service users to make a complaint regarding all public healthcare.

Your Service, Your Say (2009) is the HSE's national complaints policy and complies with legislation. This is currently being updated by the HSE.

The national healthcare standards, Safer, Better Healthcare (2012) and National Standards for Safer Better Maternity Services (2016), developed by the Health Information and Quality Authority contain standards for complaints and advocacy. The standards form the basis for HIQA inspections and reports.

Specific complaints and advocacy legislation has also been enacted for clients of designated centres – including older persons, vulnerable children and adults with a disability, children in care and mental health designated centres.

3. Definitions

Complaints Definition

The definition for complaints as outlined in the Health Act 2004 and S.I No. 652/2006 Health Act (Complaints) Regulation 2006:

“Complaint” means a complaint made under this part about any action of the Executive 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 was made.

Clinical Judgment Definition

“Clinical judgment” means a decision made or opinion formed in connection with diagnosis, care or treatment of a patient.

Advocacy Definition

HIQA *National Standards for Safer, Better Healthcare* 2012 provides the following definition:

The practice of an individual acting independently of the service provider, on behalf of, and in the interests of a service user, who may feel unable to represent themselves. Patient includes the term service use

Healthcare Complaints Advocacy / Support Service

For the purpose of developing this policy, Complaints Advocacy / Support Service can currently be defined as a service to help and empower the complainant in the healthcare complaint process. This may range from offering of information or advice in relation to preparing documentation for a complaint, to attending meetings with the complainant, to enabling them to articulate their needs, and/or involve support after complaint was made.

4. The need for change

A number of patient safety incident investigations and reports have made recommendations for a change to the current complaints and advocacy systems in terms of practice, governance, regulation and legislation. The provision and quality of the health complaints and patient advocacy services provided in Ireland has also been considered by the Ombudsman's *Learning to Get Better* report (2015) – a review of the HSE complaints process. The report highlighted the complexities and limitations of the current complaints and advocacy systems and made a number of recommendations. The report also advised that access to advocacy should be considered an essential core element of the complaints process.

The Oireachtas Joint Committee on Health and Children's Report on the Role of Advocacy in Health and Social Care Services in Ireland, 2016, supported recommendations for independent advocates and for the designation of a single pathway for all complaints, including clinical judgment. In addition, it recommended that *"the national patient advocacy service help to co-ordinate advocacy services, and develop a Code of Practice for advocacy services in agreement with a range of national stakeholders. This would ensure that all professional and voluntary advocates operate to the same ethical and legal standards."*

The HIQA Portlaoise Investigation in 2015 into patient safety incidents highlighted the need for a formal, integrated response to complaints that includes access to independent advocacy services for those in similar situations.

5. Initial review of international complaints and advocacy systems

Independent advocacy services have been recognised in many countries as an essential part of the complaints process and have been established to provide assistance (by way of representation or otherwise) to individuals making or intending to make a complaint about health services. In preparation for this analysis, the complaints process in Ireland, England, Scotland, Wales, Canada, Australia and New Zealand has been reviewed. All but Ireland included the investigation of clinical complaints in their legislation. It was also identified that the Ombudsman can investigate clinical complaints in these countries. The complaints escalation pathway is seamless in some countries, e.g. Scotland and New Zealand. As such, Ireland may benefit from adapting methodology utilised in other countries in order to manage complaints in a timelier manner.

The Health Research Board and the Oireachtas in 2016 reviewed health complaints advocacy models in New Zealand, the UK, Western Australia, Hungary, Norway and Ireland. All except Ireland have organisations that specifically provide advocacy regarding health complaints and have patients' rights legislation. While elements of their systems provide insight in to the success or otherwise of initiatives, the availability of these services are set within very different national contexts, different legislative environments and varying other support mechanisms. Advocacy Services have evolved gradually. These countries had a phased implementation of national state funded services and subsequently introduced supporting legislation and regulation. All countries under review have also introduced a Patient Rights Act.

Given the wide variation in laws, structures and community engagement, it is not possible to simply mirror or overlay the arrangements in other countries. International health systems take differing approaches. However, lessons can be retrieved from looking at initiatives and benefitting from their experience.

6. Collaboration with providers

The Department is cognisant of the importance of ensuring that a collaborative approach is taken in the development of this policy and will work directly with patients, advocacy providers and key stakeholders to progress it.

The NPSO is now commencing a structured consultation process to engage at all levels of the system and with all relevant parties. As a first step, the department is seeking to gather early perspectives from key stakeholders, staff and the public through a consultation process taking place until June 2017. More information is available at <http://health.gov.ie/national-patient-safety-office/patient-advocacy-policy/>.