



Ombudsman



Health  
Information  
and Quality  
Authority

An tUdarás Um Fhaisnéis  
agus Cálíocht Sláinte

# **Memorandum of Understanding**

between the

**Office of the Ombudsman**

and the

**Health Information  
and Quality Authority**

# **Memorandum of Understanding (MOU) between the Office of the Ombudsman and the Health Information and Quality Authority**

## **1. Background**

- 1.1 The Office of the Ombudsman (OO), established under the Ombudsman Act 1980, as amended, and the Health Information and Quality Authority (HIQA) established under the Health Act 2007 as amended (“the Parties”), wish to establish a framework for cooperation and information sharing about those elements of health and social care services which fall within their respective remits, and to establish effective procedures for signposting members of the public to each other's services.
- 1.2 The OO examines and or investigates complaints against certain public bodies, including all hospitals providing public health services as well as publicly provided social care services (including residential services for older persons and persons with disabilities) and private nursing homes whose residents are in receipt of state support or subvention. Bodies providing health or personal social services for or with the assistance of the HSE under Sections 38 and 39 of the Health Act 2004 are also subject to the Ombudsman's remit. The Ombudsman decides if complainants have been dealt with fairly and properly. He may recommend redress for complainants, if appropriate, and may make recommendations for systemic improvements arising from individual complaints and complaints generally.
- 1.3 HIQA is an independent statutory authority established to promote safety and quality in the provision of health and social care services for the benefit of the health and welfare of the public. HIQA's mandate to date extends across a wide range of public, private and voluntary sector services. Reporting to the Minister for Health and engaging with the Minister for Children and Youth Affairs, HIQA has responsibility for setting standards for health and social services, regulating social care services (Office of the Chief Inspector within HIQA is responsible for registering and inspecting residential services for older people, people with a disability and children's

special care units), regulating health services (medical exposure to ionising radiation), monitoring health services and children's social services, evaluating the clinical and costs effectiveness of health technologies, advising on the efficient and secure collection and sharing of health information and carrying out national services-user experience surveys in conjunction with the Department of Health and the HSE through the National Care Experience Programme.

- 1.4 In broad terms, the primary role of the OO is to examine individual complaints, provide individual redress where appropriate and use complaint outcomes to improve public administration. In the case of HIQA, the primary role is to drive high quality and safe care for people using health and social care services rather than the investigation of individual complaints.

## **2. Objectives**

- 2.1 While operating separate and distinct mandates, the overall objectives of the Parties are to ensure that:
  - a) members of the public are treated fairly, properly and safely in the health and social care sectors;
  - b) the potential for risk or harm to members of the public using health and social care services is minimised;
  - c) where mistakes are made, lessons are learned;
  - d) appropriate standards and procedures are in place and are constantly reviewed, monitored, improved and correctly implemented;
  - e) health and social care providers seek to operate to the highest standards possible and are engaged in continuous improvement, and,

- f) where appropriate, information is shared quickly and effectively in the best interests of the public and users of the health and social care services.

### **3. The Purpose of the Memorandum**

3.1 Consistent with the overall objectives set out in the MOU, this agreement is designed to:

- a) promote cooperation between the Parties in areas of strategic and high level operational interest that is to the benefit of service users;
- b) ensure that relevant information and personal data in respect of relevant complaints where appropriate, which becomes available to one party and which may assist the other party in the performance of its functions, is shared between the two Parties.

### **4. Areas of Cooperation**

4.1 The following specific actions will be considered by the Parties:

In accordance with the attached Schedule (Operating Protocol for the Transfer of Relevant Complaints), where HIQA receives a complaint by phone or in person, from a service user, which is within HIQA's remit and has already been dealt with by the relevant service provider and may be within the Ombudsman's remit, it will, provided consent from the service user has been received, transfer personal data in respect of relevant complaints, in accordance with the attached Schedule directly to the OO. Where consent is not provided, HIQA will provide full contact details for the OO to the service user so that a complaint can be made directly to the OO.

4.2 Where HIQA receives a complaint from a third party, on behalf of a service user, by telephone or in person, which is within HIQA's remit and has already been dealt with by the relevant service provider and may be within the OO's remit, it will, provided consent from the third party complainant has been received, transfer personal data in respect of relevant complaints, in accordance with the attached



Schedule directly to the OO. No personal data in respect of the service user will be transferred to the OO if the complaint has been made by a third party on their behalf. Where consent is not provided, HIQA will provide full contact details for the OO to the third party complainant so that a complaint can be made directly to the OO.

- 4.3 Where HIQA receives a complaint by email or letter, HIQA will provide a written response to the complainant which will set out the option of referring a complaint to the OO, a brief note of the remit of the OO and the contact details for the OO.
- 4.4 HIQA may use any information received in furtherance of its own regulatory and monitoring functions.
- 4.5 If the OO receives information, including information/concerns arising from the consideration of complaints, that may be of relevance to HIQA, it will transfer this information to HIQA through the relevant contact persons identified in clause 9. The OO will also provide HIQA's contact details to members of the public as and when appropriate.
- 4.6 This MOU will be published on each party's website together with the respective roles of each party and how each party may be of service to prospective complainants.
- 4.7 Joint initiatives such as projects, research, presentations to public bodies, or investigations will be considered by the Parties.

## **5. Confidentiality**

- 5.1 Before transferring any information or personal data, each party will satisfy itself that any such transfer is not in breach of its own legislative provisions regarding confidentiality and/or secrecy, or in breach of any other relevant statutory provisions, including the Data Protection Acts 1988 to 2018 and the General Data Protection Regulation 2016/679 (GDPR). Where information can usefully be anonymised before being transferred, each party will do that. Both Parties recognise the importance of protecting service users and thus want to facilitate effective and timely information

exchange designed to secure this outcome where appropriate.

- 5.2 Each party will, to the greatest extent possible, respect the confidentiality and/or secrecy of information exchanged under this MOU.
- 5.3 No personal data, as defined in the GDPR and Data Protection legislation, will be shared by either party unless there is a lawful basis to do so under GDPR Article 6.
- 5.4 Both Parties have agreed to enter into a Data Sharing Agreement with each other which will be published on each party's website.

## **6. Financial Arrangements**

Each party will be solely responsible for the administration and expenditure of its own resources associated with activities conducted under this MOU.

## **7. Variation**

Any provision of this MOU may be amended at any time by mutual consent in writing by each office via the respective signatories.

## **8. Effective Date and Review**

- 8.1 This MOU will come into effect upon the date of signature of both signatories and will continue in effect until its termination in accordance with clause 11.
- 8.2 This MOU will be subject to a formal review every two years from the date of its signing or otherwise as requested by a party to this MOU. The content of the MOU will be reviewed to ensure that it remains relevant, fit for purpose and up to date.
- 8.3 This review, which should be conducted by both Parties, will be carried out by the person holding the position of Chief Executive Officer of HIQA and the person holding the position of the Ombudsman. Following the review, any required variations arising therefrom will be made in accordance with clause 7.

## **9. Contact Persons**

9.1 The contact persons responsible for the operation of this MOU are:

### **HIQA contacts**

The person holding the position of **Head of Healthcare**

The person holding the position of **Deputy Chief Inspector of Social Services — Older Persons Services**

The person holding the position of **Deputy Chief Inspector of Social Services — Disability Services**

### **OO Contact**

The person holding the position of **Manager of the Early Resolution Unit**

9.2 Upon signing this MOU, each party will ensure that the identity and contact details (email and telephone number) of the persons referred to in clause 9.1 will be exchanged with the other party. In the event there is a change in the identity of a contact person referred to above during the term of this MOU. The relevant party will inform the other party of same and will forward the contact details of the replacement contact person.

## **10. Status of Memorandum of Understanding**

This MOU reflects the intentions of each party to the MOU. The MOU is not intended to create legally binding obligations of any nature, save for the obligations to maintain the confidentiality of information set out in clause 5.

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## **11. Termination**

- a) Either party may, at any time, give written notice of termination to the other office. This MOU (excepting clause 5) will terminate six months after the date of receipt of the notice of termination.

- b) The termination of this MOU will not affect the confidentiality undertakings expressed by each office in this MOU or any commitments given under, or as a consequence of, this MOU in respect of any arrangements or action taken during the period before the termination takes effect.





Peter Tyndal  
Ombudsman



Phelim Quinn  
Chief Executive Officer  
Health Information and Quality  
Authority

Date: 09.07.2019

Date: 09.07.2019

## **Schedule**

### **Operating Protocol for the Transfer of Relevant Complaints**

In cases where HIQA is in receipt of a complaint, by telephone or in person, which is within HIQA's remit and which may be appropriate for examination by the OO (see section 1.2 of the MOU) and HIQA believes the complainant has exhausted the relevant service provider's complaints mechanism, the following procedure will be followed:

1. HIQA, through its Information Handling Centre, shall seek the verbal consent of the complainant (in person or over the phone) to transfer the complaint to the OO.
2. If consent is given, HIQA will explain to the complainant that it is entirely a matter for OO to decide in any given case if it is proper for it to pursue the complaint with the body in question.
3. HIQA will transfer the following personal data in respect of relevant complaints to the OO:

Name of person making the complaint
Contact details of person making complaint (address/email address/telephone number)
Confirmation that consent has been given to transfer contact details
Confirmation they are the service user or otherwise
If not a service user, the relationship with the service user
Name of designated centre/institution

4. On a monthly basis, the above complaints information will be compiled and sent electronically by the person holding the position of Higher Executive Officer in HIQA's Information Handling Centre, to the OO contact person identified in clause 9 of the MOU.
5. In the event that there is no complaints information to be transferred to the OO in any given month, a NIL return will be made following the same steps as outlined in point 4 above.

6. The OO will be responsible for screening any potential complaints received from HIQA.
  7. Following the normal OO screening process, the OO will inform HIQA (by emailing concerns@hiqa.ie) if an investigation is being carried out by the OO in respect of any designated centre or institution that may fall within HIQA's remit. This information will then be escalated to the relevant case-holder within HIQA.
  8. If an OO report is due to be published following such an investigation, a copy of this report should be provided to HIQA (by emailing concerns@hiqa.ie) in advance of its publication. This information will then be escalated to the relevant case-holder within HIQA.
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