

**Complaints Policy**

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**1.0 Introduction**

Breaking Through views complaints as an opportunity to learn and improve for the future, as well as to put things right for the individual or organisation that has made the complaint.

Breaking Through policy is:

* To provide a fair complaints procedure which is clear and easy to use for anyone making a complaint
* To publicise the existence of our complaints procedure so that people know how to contact us to make a complaint
* To make sure everyone at Breaking Through knows what to do if a complaint is received
* To make sure all complaints are investigated fairly and in a timely manner
* To make sure that complaints are, wherever possible, resolved and that relationships are repaired
* To gather information which helps us to improve our service

**1.1 Purpose**

This policy is intended to ensure that a formal process for registering complaints is put in place and that all complaints are taken seriously and addressed in an appropriate and professional manner.

**1.2 Scope**

This policy covers the process and all actions to be taken in respect to a complaint by a concerned individual. Complaints can be made in respect of any of Breaking Through’s trainings/service.

**1.3 Glossary of Terms**

Advocate: All complainants have the right to appoint an advocate who can assist the complaint should they be are unable to make a complaint themselves.

Complaint: A complaint is any expression of dissatisfaction, whether justified or not, about any aspect of Breaking Through, in line with the Health Act 2004 ‘complaint’ means a complaint about the action of the organisation that:

1. It is claimed, does not accord with fair or sound administrative practice and
2. Adversely affects the person by whom or on whose behalf the complaint is made

Complaints Officer: The individual responsible for ensuring that complaints are properly recorded in writing when they are received by telephone, email or in person and registered in Breaking throughs log book e.g. complainant name, address, E-mail, telephone number and facts of the complaint also all communication maintained with the complainant is recorded in writing, emails, conversations, meetings etc and investigated. The complaints officer is the National Director of Breaking Through. If a complaint is not resolved by the National Director, it will be passed to a board member to investigate and take appropriate action.

Concerned Individuals: Is anyone who is directly affected by the actions of the organisation who has a legitimate interest in Breaking Through, i.e. members, funders, donors, service users this excludes those that work for the organisation such as staff who should use Breaking Through’s Discipline and Grievance Policy as set out in the company handbook.

Who can make a complaint?

* Any person who is a ‘concerned individual as defined as above.
* An advocate may also can complain on a concerned individual behalf provided they have the individual consent.

How complaints can be made

Complaints can be made by the following verbal, written and email. Please follow guidelines below.

* Written complaints may be sent to the National Director, Breaking Through, Newtown House, Confey, Leixlip, Co Kildare.
* Email: info@breakingthrough.org
* Verbal Complaints may be made by phone to 01-6060858 or in person to the National Director or other staff members at the above address.

**1.4 Acknowledgements**

Breaking Through will notify, the complainant in writing within 5 working days of any written complaint being received.

* That the complaint has been so received.
* Notes the relationship with Breaking Through member, attending training etc
* An outline of the steps that the organisation proposes to take in investigating the complaint
* Complaints will be recorded in a logbook
* Where appropriate asks the complainant to send a written account by post or by email so that the complaint is recorded in the complainant’s own words.
* A proposed time limit for the completion of the investigation.

**2.0 The Complaints management process**

There are four stages to the complains procedure:

* Stage 1 Local resolution at the point of contact
* Stage 2 Informal resolution/or formal investigation
* Stage 3 Review
* Stage 4 Independent Review

**2.1 Stage 1 Local resolution at the point of contact**

If a complainant has a complaint with an aspect of Breaking Through and the service / training it provides they should inform the National Director. Every effort will be made to resolve the problem locally at first point of contact.

**2.2 Stage 2 (a) Informal resolution**

• The complaints officer will consider whether it is practicable having regard to the nature and circumstances 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.

• If the complaint relates to a specific person, that person will be informed and given a fair opportunity to respond.

• The complaints officer may suggest mediation be used to resolve the complaint at this stage however both parties agree must agree to mediation.

• Where the complaints officer deems the complaint to be of a trivial nature the complaints officer has the right not to investigate the complaint.

• The complaints officer will inform the complainant in writing within 5 working days of the making of the decision/determination that the complaint will not be investigated and the reasons for it.

• If at any stage the complainant is dissatisfied with the way the complaint has been dealt the complainant may, at any time, request a review of the complaint by the HSE or Ombudsman as outlined below.

**Stage 2 (b) Formal investigation**

• The complaint should be reviewed by the complaints officer, to confirm that they are in possession of a written record of the complaint, which is signed and dated by the complainant and clearly sets out the nature of the compliant, why the initial response was unsatisfactory and what the complainant’s desired outcome is.

• The complaints officer will write to the complainant acknowledging receipt of the complaint in line with the procedure outlined above.

• The complaints officer will investigate the complaint and may draw on appropriate expertise, skills etc. as required.

• The complainant and other persons to whom the complaint relates will be given the opportunity to discuss the complaint with the complaints officer individually in private.

• The complaints officer will complete an investigation of the complaint within 30 working days of acknowledging the complaint. If this is not possible, within 30 working days of acknowledging the complaint, the complainant will be informed of the delay and given an indication of the time it will take to complete the investigation. The complainant and other persons to whom the complaint relates must be updated by the complaints officer every 20 working days.

• Where the investigation passes the 30 working days timeframe, the complainant must be informed of the delay and the complaints officer must endeavour to complete the investigation within 6 months.

• Where deadlines are not met, the complainant must be informed that they can chose to move to stage 3 (if relevant) / stage 4 of the complaint’s management process.

• The complaints officer will inform the complainant and other persons to whom the complaint relates of the outcome of the investigation in writing. The letter must state whether the complaint has been upheld, and whether any further action will be taken. If the complainant is not satisfied with the outcome of the investigation, they will be informed of the stage 3 and 4 reviews.

**2.3 Stage 3 Review**

If the complaint is not resolved the National Director is subject to the general authorisation of the Board. If the Board considers that the complaint is not substantiated the complainant should be informed within 5 working day. If the Board considers the complaint to warrant further investigation it proceeds as follows:

The Board of Breaking Through will appoint a Review Officer to carry out the review of the complaint. The complainant will be notified within 5 working days of the review process. Review Officer(s) will review the processes used to carry out the investigation of the complaint and the findings and recommendations made. The Review Officer(s) will either uphold, vary or make a new finding and recommendations. The complainant will receive a letter stating the action taken to investigate, the conclusion from the investigation by the Boards complaint officer and what action taken as a result of the complaint within 30 days. The decision taken at this stage is final. The complainant will be informed by the Review Officer and may accept the recommendations made or can seek a review of the complaint by the Ombudsman.

**2.4 Stage 4 – Independent Review**

At any stage in the complaint management process the complainant may seek to have a review of the complaint conducted by the Ombudsman. All requests for an independent review should be forwarded to the following:

**Office of the Ombudsman,**

**6 Earlsfort Terrace,**

**Dublin 2.**

**D02 W773**

**Telephone: 01 639 5600**

**Email: ombudsman@ombudsman.gov.ie**

Breaking Through must inform the complainant that they always have a right to have their complaint reviewed by the Ombudsman. However, they must be made aware that the Ombudsman will, in most cases, require that Breaking Through complaints management process be exhausted before they will initiate a review of the complaint.

**3.0 General Information**

**3.1 Time limits for making a complaint**

Time limits for complaints are 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 decide to extend the time limit for making a complaint if in the opinion of the complaints officer special circumstances make it appropriate to do so. Special circumstances may include but are not limited 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 the complaint and this took longer than 12 months.

• The complaints officer must notify the complainant of the decision to extend /not extend the time limits within 5 working days.

**3.2 Matters excluded**

Pursuant to Section 48(1), Part 9 of the Health Act 2004 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 judgment 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 judgement in the circumstance described at paragraph (b).

(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 advisor that the Executive proposes to enter into under Section 24 of the Health Act 2004.

(f) A matter relating to the Social Welfare Acts.

(g) A matter that could be the subject of an appeal under Section 60 of the Civil Registration Act 2004

(h) A matter that could prejudice an investigation being undertaken by the Garda Síochána.

(i) A matter that has been brought before any other complaints procedure established

**3.3 Redress**

Breaking Through will endeavour to ensure that redress is consistent and fair for both the complainant and the party or parties against whom the complaint was made. Where it has been established that a measurable loss, detriment or disadvantage was suffered or sustained by the complainant personally and that this loss, detriment or disadvantage was caused solely by the actions of the organisation or its staff member Breaking Through will aim to offer forms of redress or responses that are appropriate and reasonable. This redress could include:

• Apology

• An explanation

• 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 or law

**3.4 Refusal to investigate/further investigate complaints**

A complaints officer shall not investigate if a complaint if:

(a)The person who made the complaint is not entitled under section 46 of the Health Act 2004 to do so on the person’s own behalf or the behalf of another

(b) The complaint is made after the expiry of the period under section 46 health Act (12 months) or any extension of that period allowed under section 47 (3).

(2) A 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, that officer (1) is of the opinion that the complaint does not disclose a ground of complaint provided for in section 46, (2) the subject-matter of the complaint is excluded by section 48, (3). the subject-matter of the complaint is trivial, (4). the complaint is vexatious or not made in good faith, or (b) is satisfied that the complaint has been resolved.

(3) A complaints officer shall, as soon as practicable after determining that he or she is prohibited by subsection (1)from investigating a complaint or after deciding under subsection (2)not to investigate or further investigate a complaint, inform the complainant in writing of the determination or decision and the reasons for it.

**3.5 Vexatious or Malicious complaints**

The complaints handling process will provide a fair investigation in a accordance with the procedure outlined and give support to a complainant where it is deemed that a complaint has been made with sufficient grounds and without the conscious desire to cause harm to our service. All complaints will be given equal consideration and investigated; however, staff/trainers are not expected to tolerate abusive or threatening or unreasonable behaviour. Breaking Through views the making of a malicious or vexatious complaint against any staff member/trainer with the utmost seriousness. Complaints that are believed to be vexatious, malicious or frivolous will not be investigated.

**3.6 Confidentiality**

All complaint information will be handled sensitively, telling only those who need to be informed and following all date protection guidelines. All personal information received by Breaking Through in relation to a complaint shall be stored in accordance with the GDPR, the Data Protection Act 2018 and the Freedom of Information Act 2014.

**3.7 Reporting to the HSE**

As a service provider who has entered into a Service Level Agreement (SLA) with the HSE under Section 38 or Section 39 of the Health Act 2004 Breaking Through are obliged to report to the HSE on a bi-annual basis on the complaints received by Breaking Through indicating:

• The total number of complaints

• The nature of complaints

• The number of complaints resolved by informal means

• The number of formal written complaints

• The outcome of any investigations into the complaints

**3.8 Policy Review**

This policy will be review on a regular basis. Any information gathered will be used to evaluate the policy and procedures at regular intervals to identify changes if necessary, to improve the policy. All changes to this policy will be communicated to all staff and board members. Reviewed on 12/09/2023.