

The logo for TúsLA, featuring the word 'TúsLA' in a bold, white, sans-serif font. The background of the entire page is a vibrant blue-to-green gradient, decorated with various geometric patterns including concentric circles, wavy lines, and small plus signs.

TúsLA

An Ghníomhaireacht um
Leanaí agus an Teaghlach
Child and Family Agency

A white speech bubble graphic with a tail pointing towards the top left, containing the text 'TELL US'.

TELL US

Procedures for Complaint Officers

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Introduction & Overview

1.0 Introduction

Part 9 of the Child and Family Agency Act, 2013, enshrines the right of service users to make a complaint to Tusla and places responsibility on us for establishing effective processes for dealing with complaints.

Complaints received by Tusla from our service users (and other people affected by the services we provide) represent an important way in which our service users can make their voices and views heard. Effective and positive management of complaints allows us to demonstrate our commitment to accountability, transparency and good governance. It also represents an opportunity for quality assurance and quality improvement.

As a Tusla Complaint Officer, you are essential to ensuring that complaints are managed fairly and impartially, in accordance with fair procedures and due process, whilst treating all parties to the complaint with courtesy, respect and consideration throughout the process.

Our approach to complaint management is one of resolution, not blame. At all times we seek to learn from complaints so that we can improve our services for all children, families, individuals and communities that we engage with. As a Complaint Officer, your findings, decisions and recommendations will contribute to learning and improvement for the whole Agency.

1.1 Purpose

The purpose of this document is to provide Complaint Officers with knowledge, advice and guidance that will improve and strengthen the skills of those Complaint Officers to respond confidently, competently and consistently to all complaints dealt with under Stage 2 of the *Tell Us* policy.

1.2 Scope

This procedure document is for the benefit of a range of people listed below:

- Tusla Complaint Officers and Complaint Review Officers.
- Staff that are identified by service providers to act as Complaint Officers and Complaint Review Officers.
- Service providers that have been contracted to carry out a complaint investigation on behalf of Tusla.
- All staff members.

1.3 Legislation, related policies and standards

- Part 9 of the Child and Family Agency Act, 2013
- *Tell Us: Feedback and Complaints Policy*
- *Tell Us, You Say, We Listen: How to give Feedback and make Complaints to Tusla: A guide for Children and Young People*
- *Tell Us, You Say, We Listen: Dealing with Unreasonable Complainant Behaviour: Guidance for Staff*
- *Tell Us: Procedures for Complaint Review Officers*

Introduction & Overview

1.4 Principles

All actions and decisions taken as part of the complaint management process will reflect our vision, mission statement and core values to keep children safe and properly cared for.

Our Values & Behaviours



Trust



Respect



Kindness



Empowerment

Support our service users

We will support children, young people, families and individuals (and any other people affected by Tusla services) to express their views about our services in ways that feel safe and are transparent.

Encourage feedback

We will make it easy for children, young people and their families (and any other people affected by Tusla services) to express their views.

We will listen and respond to these views and act on them when appropriate.

Keep people up to date

After people complain or give us feedback, we will keep them up to date on how we are handling it.

Manage complaint information

We will record all complaints on the Tusla complaints section of the National Incident Management System (NIMS).

Manage complaints well

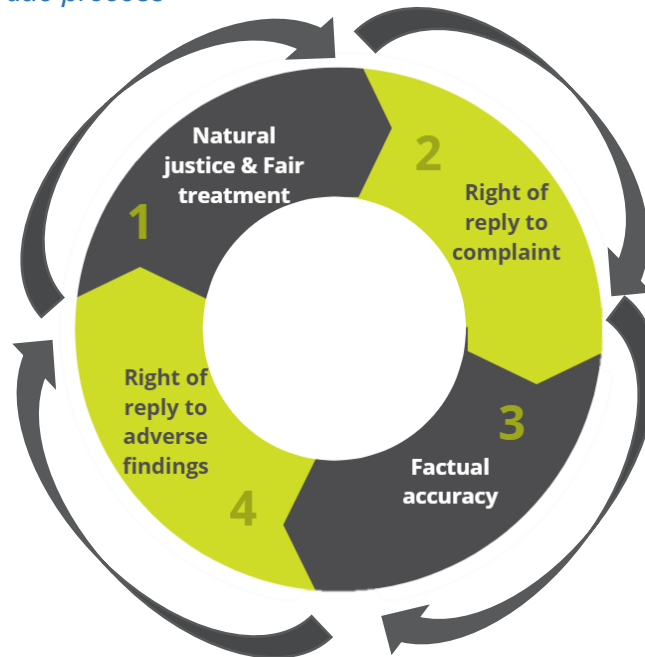
By managing complaints well, we aim to:

- increase trust in our services
- protect staff morale
- build public confidence in our services.

If anyone complains to us, it will not adversely affect the service that we give them.

Introduction & Overview

Fair procedures and due process



It is your responsibility as a Complaint Officer to ensure that fair procedures and due process are adhered to throughout the complaint process. If this is not done, the rights of all parties to the complaint are infringed, and the entire complaint investigation is undermined.

The principles of natural justice must be applied, including adequate notice, a fair hearing and evidence-based decision-making.

This is covered in more detail in the e-learning module *Understanding Complaint Investigations*, which is available to all staff members through iLearn.

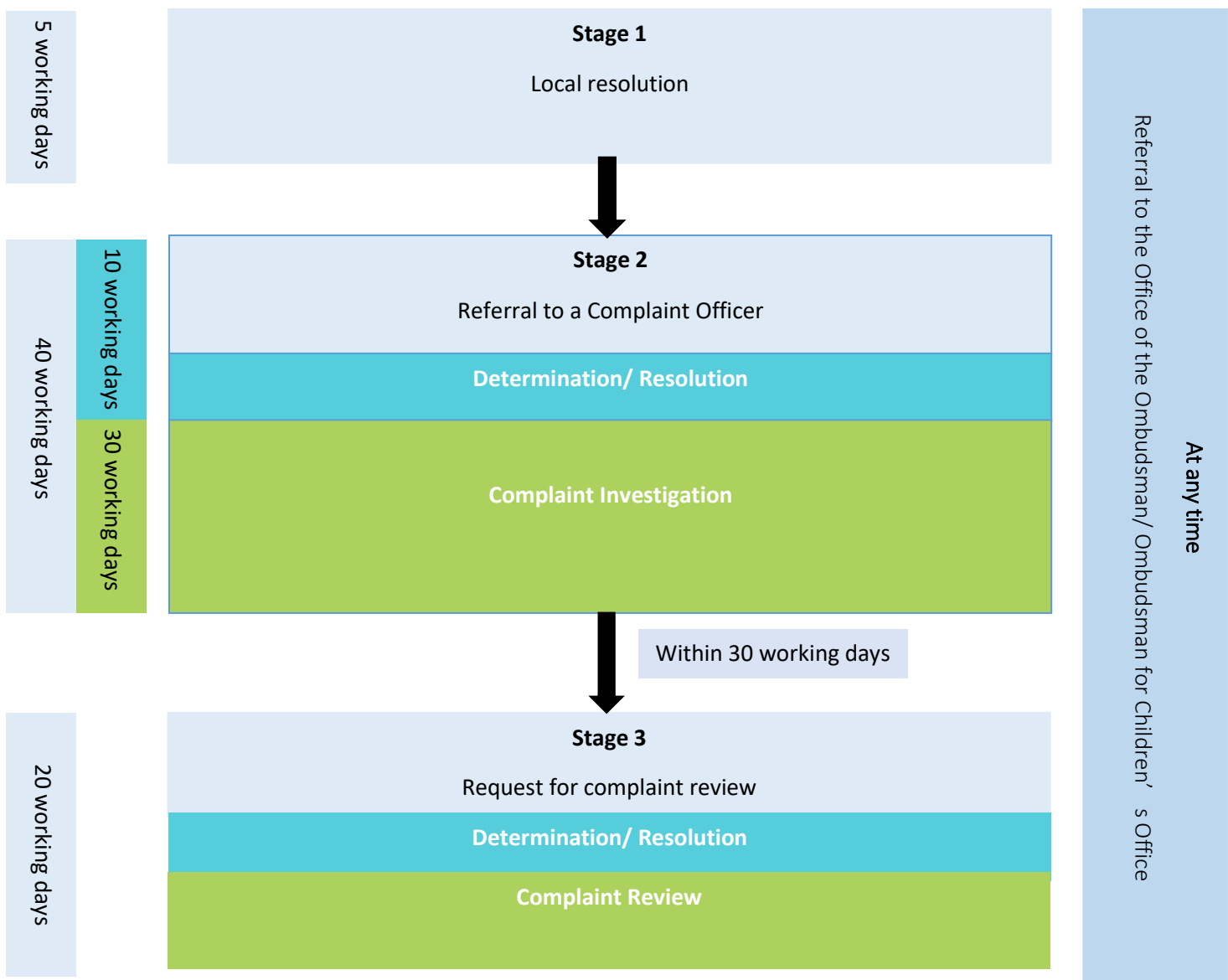
1.5 Role of the Complaint Officer

The Complaint Officer is responsible for carrying out their duties in a manner that is consistent with the principles defined above.

The role of the Complaint Officer is clearly defined in Appendix One of Tusla's Complaints and Feedback Policy "*Tell Us*".

Introduction & Overview

1.6 Overview of the complaints process



The determination phase must be completed within 10 working days of the complaint being escalated to Stage 2 (because local resolution was not suitable or has not been successful), or a complaint being received by Tusla directly at Stage 2 (for example, where a complainant writes directly to a Complaint Officer).

A complaint investigation should be completed within **30 working days** of your decision to proceed to an investigation.

In exceptional circumstances, it may not be possible to meet this time frame. In these circumstances, once the 30 working day time frame has passed, you **must** provide the parties to the complaint with an update in writing on the progress of the complaint investigation at that time, and every **20 working days** thereafter.

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1.7 Legal basis for processing data

When a complaint is received by Tusla, the basis for proceeding is a legal one, so consent is not sought. However, Tusla seeks to be collaborative with complainants at all times in line with its value base.

Data processing in complaints can include access to sensitive information, such as case files, and recording a complaint to NIMS.

The legal basis for processing data relating to complaints is Article 6.1(c) of the General Data Protection Regulation (GDPR):

Processing is necessary for compliance with a legal obligation to which the controller is subject.

The legal basis for processing sensitive personal data is Article 9.1(g) of the GDPR:

Processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

These Articles of the GDPR apply because Section 64(1) of the Child and Family Agency Act, 2013, requires us to establish procedures for dealing with complaints:

Subject to subsection (2) and any regulations under section 68, Tusla shall establish procedures for—

(a) dealing with complaints against the Agency or a service provider, and

(b) reviewing, at the request of a complainant, any recommendation made by a Complaint Officer following the investigation of a complaint.

The processing of data, including sensitive personal data, in order to enable us to investigate complaints about Tusla is of substantial public interest because it enables us to establish the facts, offer redress if appropriate, learn from mistakes and try to avoid the same situation from arising again. It is an important part of the governance of our services and helps to ensure openness and transparency.

1.8 Complaints received from children and young people

Children have a right to be heard, listened to and taken seriously. Taking account of their age and understanding, they should be consulted and involved in all matters and decisions that may affect their lives.

Parents, guardians and carers have a right to respect, and should be consulted and involved in matters that concern their family.

A proper balance must be struck between protecting children and respecting the rights and needs of parents/carers and families.

Where a complainant is under the age of 18 years, they are free to make a complaint without the support of an adult. However, it is best practice to advise parents/guardians of any interaction you plan to have with a child or young person. You will need to explain this to the young person and make the relevant contacts prior to beginning your work.

There may be certain exceptions, such as where informing the child or young person's parent or guardian will place the child at risk in some way.

Tusla's safeguarding statement should be adhered to in respect of working with children and young people.

2.0 Overview of determination phase

This phase of the complaints process involves determining whether the complaint meets the criteria to proceed to investigation, or whether it is possible to resolve the complaint without proceeding to investigation.

It will involve engagement with the complainant and any staff member subject to the complaint in order to clarify the complaint, clearly define the complaint, explore possible resolution of the complaint, and come to a decision about the best way to proceed.

In order to complete this step, you may need to view case files or speak with some of the staff members who have been involved in managing the complaint at a local level. It is important to be clear that this is not a formal interview regarding the complaint, but rather an information-gathering step to help you decide how best to go forward.

This step fulfils the requirements of preliminary investigation as outlined in Part 9 of the Child and Family Agency Act, 2013.

Breaking down the complaint issues

Before beginning the Determination phase, it is important to break down the complaint into individual complaint issues, bearing in mind the definition of a complaint as outlined in the *Tell Us* policy.

Timeframe

This step **must** be completed within 10 working days of the complaint being referred to Stage 2 (because local resolution was not suitable or has not been successful), or of a complaint being received by Tusla directly at Stage 2 (for example, where a complainant writes directly to a Complaint Officer).

By the end of the 10 working days all the steps in this phase must be completed and the complainant must have received a letter advising them of one of the following:

- resolution of the complaint by you as the Complaint Officer (this is recorded as *informal resolution* on NIMS).
- or
- your decision to proceed to investigation.
- or
- your decision not to proceed to investigation and the reason for the decision (see template letters available on the Tusla HUB).

2.1 Determine whether a referral to an alternative Complaint Officer is necessary

The management of complaints must be free from actual bias and also from the **perception** of bias.

This means that, in certain circumstances, where a party to the complaint may perceive a bias, it is not advisable for that Complaint Officer to manage the complaint. This can occur even when the Complaint Officer is confident in their ability to set aside any potential bias.

This determination must be made as early as possible in the management of the complaint, to ensure fairness to the complainant, any staff members involved in the complaint, and the Complaint Officer themselves. However, bear in mind that additional information may come to light at any stage during the management of a complaint that may have an impact on this, so the decision may need to be revisited at a later stage.

Factors to consider when determining whether a referral to an alternative Complaint Officer may be necessary include:

1. Have I had personal involvement in the management of this case?
2. Have I been responsible for supervision of staff during their management of this case?
3. Have I been responsible for sign-off of decisions about the management of this case?
4. Have I had close involvement with the staff or service involved (this may include personal or working relationships, both positive and negative)?
5. Are there any personal circumstances which might make it difficult for me to be impartial in managing this complaint?
6. Could the complainant, a staff member involved in the complaint, or a neutral observer have a reasonable belief that I cannot be impartial in managing this complaint (even if this is untrue)?

If the answer to any of the above questions is 'Yes', then the complaint must be given to an alternative Complaint Officer.

This must be discussed with a person who assigned the complaint to you, and/or the person who is in the position to re-allocate the complaint to an alternative Complaint Officer, at the earliest possible opportunity.

2.2 Determine whether the person making the complaint is eligible to do so

Section 3.5 of the *Tell Us* policy outlines who is eligible to make a complaint.

Where a person is making a complaint on their own behalf, you may request photo ID, proof of address, or similar documents in order to satisfy yourself of their identity. This is **essential** where sensitive documents such as case files will need to be accessed in order to investigate the complaint, or where any sensitive personal data will be released to the complainant in responding to the complaint.

Complaints made on behalf of another person due to age, illness or disability

If a person who is entitled to make a complaint cannot do so because of age, illness or disability, and another person is making the complaint on their behalf, you must satisfy yourself of the following:

1. The person is not able to make the complaint on their own behalf due to age, illness or disability, **and**
2. The complainant falls under one of the categories listed as eligible to make a complaint on their behalf.

Complaints made on behalf of a deceased person

If a person who was entitled to make a complaint cannot do so because they are deceased, and another person is making a complaint on their behalf, you must satisfy yourself of the following:

1. The person is deceased, **and**
2. The complainant is a close relative, carer, or family member.

Evidence requested may include birth, marriage or death certificates, photo ID, proof of address, proof of registered Enduring Power of Attorney or similar documents.

Complaints made on behalf of another person with their authority to act on their behalf

Where the complainant is making a complaint on behalf of another person, you must satisfy yourself that the complainant has that person's specific, informed and written authority to act on their behalf.

For authority to act on another person's behalf to be considered valid under the *Tell Us* policy, the following conditions must have been met:

1. Sufficient information has been given to the person about the process to be undertaken. This includes information about which files and information may be accessed, and what information may be shared with the person making a complaint on their behalf.
2. The authority to act was freely given (i.e. not given under duress).
3. The person has the capacity to give authority to act.
4. The authority to act has been given in writing or in circumstances where this is not possible, should be documented to the satisfaction of the complaint officer.

Complaints made by another person on behalf of a child or young person

Where a complaint is made on behalf of a child or young person by any of the following, no authority to act on their behalf is required:

- A parent of the child or young person.
- A guardian of the child or young person.
- A foster carer of the child or young person (provided the child or young person is still in their care).
- The child or young person's Guardian Ad Litem.

Children have a right to be heard, listened to and taken seriously. Taking account of their age and understanding, they should be consulted and involved in all matters and decisions that may affect their lives.

2.3 Determine whether grounds for a complaint are present and define the complaint

In making this determination, it is important to bear in mind the following elements of the definition of a complaint (*Tell Us* policy, Section 3.4):

1. There must be an expression of dissatisfaction.
2. This must relate to an action or inaction by Tusla.
3. It must be claimed that the action or inaction was contrary to fair or sound administrative practice.
4. It must be claimed that there is an adverse effect on the complainant (or the person on whose behalf the complaint is being made).

It is also important to bear in mind the **exclusions** under the legislation (*Tell Us* policy, Section 3.8) and the **alternative pathways** under the *Tell Us* policy (*Tell Us* policy, Appendix Two).

In many cases, it will be important to engage directly with the complainant during this process in order to clarify aspects of their complaint and to ensure your understanding of their complaint.

Once you have determined that there are grounds for a complaint, you must define the complaint. When defining the complaint, try to ensure that you include the elements listed above, including:

1. Specifying the action/ inaction.
2. Specifying in what way this is claimed to be contrary to fair and sound administrative practice.
3. Specifying the claimed adverse effect.

A clear boundary to the complaint will be important when it comes to resolving or investigating the complaint.

This defining of the complaint **must** be agreed with the complainant.

If you have determined that the complainant did not identify valid grounds for a complaint, or that the matter is excluded, there are a number of options which you must consider:

1. Consider whether the complainant needs assistance to clarify their complaint.
2. Consider whether the matter can be processed as feedback.
3. Consider whether the matter can be referred to an alternative process.

The complainant may seek a review of the decision that grounds for a complaint are not present, or the decision that a matter is excluded, by requesting a complaint review. At any stage, the complainant may refer their complaint to the Office of the Ombudsman or the Ombudsman for Children's Office as relevant.

2.4 Determine whether there are grounds for a decision not to investigate (or further investigate) the complaint

Under Section 65 of the Child and Family Agency Act, 2013, a Complaint Officer may decide not to investigate (or further investigate) a complaint, even where the grounds for a complaint are present and the matters are not excluded. This Section of the Act should be used judiciously and applies under the following circumstances:

1. In the Complaint Officer's opinion, the subject matter of the complaint is trivial.
2. In the Complaint Officer's opinion, the complaint is vexatious or not made in good faith.
3. The Complaint Officer is of the opinion that the matter has been resolved.

The complainant may seek a review of the decision not to investigate or further investigate a complaint by requesting a complaint review. At any stage, the complainant may refer their complaint to the Office of the Ombudsman or the Ombudsman for Children's Office as relevant.

Determining whether the complaint is trivial, vexatious or not made in good faith

Great care should be taken in determining that a complaint is trivial, vexatious or not made in good faith, as this is highly subjective and open to interpretation.

It is very important to consider whether the complaint itself is vexatious or not made in good faith, or alternatively whether it is the behaviour of the complainant that is unreasonable. If you believe that the behaviour of the complainant is unreasonable, you should refer to the *Guidance for Dealing with Unreasonable Complainant Behaviour*. The decision to implement this guidance must be taken by a manager at Grade VIII or above.

It is important to note that, while the behaviour of a complainant may be unreasonable, this does not automatically mean that the complaint itself is vexatious. In most cases, it will be necessary to manage the behaviour of the complainant while continuing to investigate the complaint. If all reasonable attempts to manage the behaviour of the complainant through implementing the *Guidance for Dealing with Unreasonable Complainant Behaviour* are unsuccessful, then it may be necessary to classify the complaint as vexatious and decide not to proceed.

If you decide not to proceed because you have determined that the complaint is trivial, vexatious, or not made in good faith, you must write to the complainant to inform them of your decision. You must provide the complainant with an explanation and evidence underpinning your determination.

Determining whether the matter complained of has been resolved

In determining whether the matter complained of has been resolved, you should consider the following questions:

1. Have steps been taken to put the complainant back in the position they would have been in, had the action/ inaction not happened? For example, if the complainant was to have been added to a waiting list 6 months ago and this was overlooked, have they now been placed onto the waiting list in the place that they would have been in, had this been done at the time?
2. Has the complainant been informed of these steps?
3. Has the complainant received a meaningful apology?
4. Has the complainant received an explanation for the action/ inaction?
5. Are there questions which remain to be answered about what happened, which might be answered by conducting a complaint investigation?
6. Are there broader implications for Tusla, other than what was already identified at a local level, and have they been brought to the attention of the appropriate managers?

This section may also be relevant where a complaint has previously been investigated, or is currently in the process of being investigation by another Complaint Officer.

2.5 Determine whether the complaint has been made within the required timeframe

According to Section 3.9 of the *Tell Us* policy, a complaint must be made within 12 months of:

1. the date of the action or inaction that the complaint is about,
or
2. the date of the complainant becoming aware of the action or inaction that the complaint is about.

It is important to consider whether new information has recently been made available to the complainant, for example, if they have recently received relevant information following a Freedom of Information Request or Data Subject Access Request.

A Complaint Officer may extend the time limit for making a complaint in special circumstances or if they consider it to be in the public interest to do so.

If a complaint is made outside the timeframe, you **must** consider whether there are any grounds to extend the time limit. This decision rests with the Complaint Officer.

Some factors to consider when deciding whether to extend the timeframe include, but are not limited to, the following:

1. Is the complainant a young adult who is making a complaint relating to their contact with us during their childhood?
2. Has the complainant been unwell?
3. Has the complainant recently been bereaved?
4. Has Tusla been timely in our own dealings with the complainant (i.e. could we be seen to be holding the complainant to a higher standard than we hold ourselves)?
5. Is the matter of such seriousness that it merits a complaint investigation despite being made outside the timeframe?
6. Is there a possibility that the matter has also affected other service users?
7. Other mitigating circumstances.

2.6 Determine whether the complaint can be resolved without proceeding to investigation

Before proceeding to a complaint investigation, you **must** consider whether it is possible to resolve the complaint.

In resolving a complaint, you seek to correct or mitigate, as far as is reasonably practicable, the adverse effect on the complainant.

This will involve direct engagement with the complainant to determine what they would like to happen, and consideration of reasonable actions that may be taken. It should also involve engagement with staff members in the service concerned, in order to put in place a resolution. You must ensure that any individual staff members who are named in the complaint are kept informed of, and are agreeable to, any planned resolution, thus ensuring fair procedure. Where staff are not agreeable to a proposed resolution the matter will progress to investigation.

When engaging directly with a complainant to discuss the possibility of resolution, you should follow the LEARN communication model detailed in module one of the e-learning programme, *Complaint Handling in Tusla* (see Appendix 3).

Some questions to consider asking when engaging with a complainant include:

1. What happened?
2. What effect did this have for you?
3. What is most important to you at the moment?
4. What would you like to happen next?

If the action the complainant wants is reasonable and practicable, you should try to work with the service concerned to put this in place. However, in some cases, you may need to reach a compromise that both the complainant and the service can agree is reasonable and will resolve the complaint.

Some examples of potential resolutions to a complaint could include rescheduling of appointments, a letter of apology, or a facilitated meeting with relevant staff members to discuss what happened and what is planned going forward.

In determining whether a potential resolution is reasonable, you should consider the following factors:

1. Would this resolution put the complainant back in the position they would have been in, had the action or inaction not taken place?
2. If the complaint was in relation to a failure to provide sufficient information or explanation in relation to a particular action or inaction, does the resolution ensure that the complainant will now be given sufficient information?
3. Will the service be able to deliver this resolution? This includes consideration of service capacity, staffing and funding.
4. Does this resolution place an undue burden on the complainant or on staff members?

This type of resolution is categorised as 'Informal resolution' for data collection purposes.

2.7 Decision to proceed to investigation

Where the following criteria have been met, you should proceed to investigation of the complaint:

1. There is no risk of bias or reasonable perception of bias regarding your continued management of the complaint.
2. The person making the complaint is eligible to do so.
3. There are grounds for a complaint under the *Tell Us* policy (including consideration of exclusions).
4. The complaint is not evidently trivial, vexatious, or not made in good faith.
5. The complaint was made within the time limit or there are grounds to extend the time limit.
6. The complaint has not been resolved and a facilitated resolution is not possible or is not suitable.

In this instance, you must write to the complainant to inform them of your decision to proceed. Your letter should include the following information:

1. A list of the complaints or substantive issues that will be investigated (including NIMS incident reference number for each issue).
2. A list of any complaints or substantive issues that were referred to an alternative process/ pathway (identifying the alternative process and including an explanation for the referral).
3. A list of any complaints that were excluded under the legislation (including an explanation for the exclusion).
4. The steps that will/ may be taken to investigate the complaint.
5. The date by which the complainant can expect to receive a response.
6. Information about what will happen if it is not possible to provide a response by the expected date.
7. Information about how the complainant can request a complaint review following the complaint investigation.
8. Information about the complainant's right to contact the Office of the Ombudsman/ the Ombudsman for Children's Office.

Each complaint issue must be clearly defined and must have been agreed with the complainant during the determination phase of the process. This is important to avoid unmanaged expectations.

3.0 Overview of investigation phase

In investigating a complaint, for each complaint issue you seek to:

1. Understand the causes of the action/ inaction carried out by Tusla.
2. Determine whether the action/ inaction was contrary to fair and sound administrative practices.
3. Determine whether there was, or could have been, an adverse effect on the complainant.

Where a complaint issue is upheld or partially upheld, you will then make recommendations which will seek to do one of a number of things:

1. Correct the adverse effect on the complainant.
2. Mitigate the adverse effect, as far as is reasonably practicable.
3. Prevent a recurrence of the circumstances which led to the action/ inaction.

Throughout the complaints process your focus should be on resolution of the complaint issues and not on assigning blame.

Timeframes

A complaint investigation should be completed within **30 working days** of your decision to proceed to an investigation.

All parties to the complaint should be informed of the expected date of completion of the complaint investigation at the outset.

In exceptional circumstances, it may not be possible to meet this time frame. This may occur, for example, where it has taken additional time to locate documentation, or where a party to the complaint is not available for interview until a particular date.

As soon as it becomes evident that it is unlikely that the expected completion date will be met, you **must** inform all parties to the complaint in writing, including an explanation for the delay.

Once the 30 working day time frame has passed, you **must** provide the parties to the complaint with an update in writing on the progress of the complaint investigation at that time and every **20 working days** after that.

3.1 Notifying staff members

Staff members have a right to be informed when a complaint is made about them or the work they have carried out on behalf of Tusla.

Having a complaint made about work they have carried out can be very stressful for staff members and it is important that you bear this in mind when notifying them of a complaint. Consider what might be the best way for the staff member to be notified. For some people, this might be through their line manager, or informally in person or via phone in the first instance. Others might prefer to receive formal written communication only. Regardless of the method of first contact, every staff member must be provided with the complaint in writing.

Line managers must be informed when a complaint is made about work carried out by one of their staff members, as this will enable them to provide support to the staff member throughout the process and to consider whether any risk issues arise from the complaint. As a Complaint Officer, you can use your own judgement on the appropriate sequencing of this advice depending on the situational context.

If the work complained about was carried out by an ex-staff member, you should endeavour to contact this person and invite a response to the complaint issues relevant to this ex-staff member. If after all reasonable efforts, you are unable to obtain a response from the ex-staff member, you must endeavour to complete the investigation of the complaint based on the evidence available to you. If, after all reasonable efforts, you have been unable to contact an ex-staff member, you must note this in the complaint investigation report and make it clear that the ex-staff member has not had the opportunity for a right of reply or factual accuracy check.

Ex-staff members are considered third parties. Further information can be found in Section 3.2 *Gathering information or responses to a complaint from third parties*.

Rights of staff members

When a complaint is made about work carried out by a staff member, they must be provided with a copy of the part of the complaint that relates to their work. They have a right to see the complaint, to be given time to consider it and to provide a response. Staff also have the right to access all information in the possession of the decision maker which is about them, or which is relevant to a complaint made about work carried out by them on behalf of Tusla. This latter material is made available to staff when they are provided with opportunities for right of reply and for factual accuracy.

Staff members must always be informed of the supports that are available to them throughout the process, which includes support from line management, Employee Assistance Programme and from Trade Union representation (*Tell Us* policy, Section 3.18).

Support for staff members

It is important to note that complaints are about actions or inactions by Tusla as a whole, even where an individual staff member is named in the complaint. In practice, this may feel different to staff members, so it is important that they know that when we investigate complaints, we are looking for ways to resolve the issue and ways in which we can help the system to improve by identifying points in processes where there are gaps or weaknesses.

It is important to stress that a complaint investigation is not a disciplinary process. We are not seeking to assign blame to any individual for any gaps, weaknesses or flaws in the system. Any recommendations made about work carried out by individuals will be constructive, contextualised, and will seek to resolve matters.

Matters of professional misconduct and disciplinary matters are not within the scope of the complaints process. Where an issue arises that may need to be addressed between a staff member and their line manager, this will be separate from the process of investigating the complaint.

It is also recognised that, if warranted, the recommendations of a complaint investigation may include referral to other agency processes e.g. line management, grievance or disciplinary processes.

Communication

All staff members are required, under the terms of their contract of employment, to adhere to Tusla policies and procedures which have particular application to their role. This includes the *Tell Us* policy, which has application to the role of every staff member in Tusla.

All staff members are required to participate in the complaints process. In the unusual instance of a staff member declining to provide a response to a complaint, it is important to advise staff members that the complaint investigation will still continue and that the findings will be based on the evidence that is available to you.

Where staff members have not provided a response or have refused to participate in the complaints process, this should be noted to their line manager in writing. The staff member concerned should be advised of this and provided with a copy of the letter/email to the line manager.

It is important to note that, even where staff have chosen not to participate in the complaints process, they must be provided with the opportunity for factual accuracy checks and the opportunity to respond to any provisional findings or recommendations which relate to work they have carried out on behalf of Tusla.

As the Complaint Officer, you must ensure that relevant staff members are kept informed about the progress of the complaint investigation and are advised of any change to the expected date that the investigation will be completed.

You must ensure that all correspondence relating to a complaint is marked **Strictly Confidential** as per the Tusla *Information Classification and Handling* policy.

3.2 Gathering information

During the determination phase of managing the complaint, you will have engaged with the complainant to clearly define their complaint.

During the investigation phase, you will gather the information and evidence which will form your findings when you write the complaint investigation report.

This may include any or all of the following:

1. Case files
2. Correspondence (including emails)
3. Relevant policies, procedures, protocols and guidelines
4. Relevant legislation
5. Information from staff members
 - a. Written responses
 - b. Responses at interview
6. Further information from the complainant or other relevant person (for example, a witness to the events)
 - a. Further written information
 - b. Further information at interview
7. Expert advice or guidance

As you go about gathering information, you may find it helpful to construct a chronology of events to aid you in analysing the information later.

This will also help to identify any gaps or questions that emerge while you are gathering information, and where you will need to request further documentation or information from staff members or the complainant.

3.3 Requesting information from a party to a complaint

When requesting information from staff members, complainants or other relevant persons in relation to a complaint, it is important to consider the most appropriate method of obtaining this information.

You might consider the following factors when making this decision:

1. How many questions do I need to ask this person?
2. Are the questions I need to ask straightforward or complex? For example, am I simply asking the person to confirm a date that something occurred, or am I asking them to recall everything that happened at a particular meeting on a particular date?
3. Is there a possibility that the response to a question might lead to a further question or number of questions?
4. Would it be helpful for the person to be able to provide more context, rather than just short responses to my questions?
5. Has the person expressed a preference about how they would like to provide information?

Having taken all the relevant circumstances into account, you will then decide whether to request a written response or to seek an interview with the person.

When the person has been named in the complaint or the complaint relates to work they have carried out on behalf of Tusla, you must supply the person with a copy of the relevant part of the complaint prior to requesting information from them or inviting them to interview.

Requesting a written response from a party to a complaint

When requesting a written response from a staff member, complainant, or other relevant person, you must ensure that your questions are concise and clear.

If your questions refer to any specific documentation, you should endeavour to provide the person with this documentation for their reference.

You must provide the person with sufficient time to consider your questions, review any available documentation, and formulate a response. In general, a timeframe of **5 working days** will be sufficient, but depending on the volume and complexity of your questions, you may decide that more or less time is appropriate. You must clearly advise the person of the date that a response is required.

Interviewing a party to a complaint

If you decide to invite the complainant, a staff member, or another relevant person to interview in relation to a complaint, you must give careful consideration to the location of the interview and you should take the interviewee's wishes into account (for example, some staff members would rather not have the interview in the location where they normally work, or a complainant may not wish to be interviewed in the location the complaint relates to).

You should ensure that you have thoroughly planned for the interview and have prepared the questions you will ask, along with potential follow-up questions.

You should ensure that you arrive at the location of the interview well in advance and prepare the room. Try to ensure that the room is quiet, private and comfortable.

All interviews conducted as part of the complaint investigation should be conducted in a supportive and understanding manner. Interviews should not be confrontational or judgmental.

When the interviewee arrives, you should try your best to put them at ease. Remind them that you have not made any findings or decisions yet and that you are just trying to find out what happened. Remind them that your focus is on resolution of the issues, not on blame.

Inform the interviewee at the beginning of the interview of the following:

1. You will be making some notes during the interview.
2. You will ask them some questions relating to the complaint.
3. If they want to think about a particular question and come back to it later, that is no problem.
4. If there is something that has not been mentioned during the interview that they think is relevant or helpful, they will have an opportunity to tell you before the end of the interview.
5. Following the interview, they will be provided with a typed copy of the interview notes, and they will be asked to check that these are accurate and come back to you with any corrections or clarifications within a set timeframe.

It is good practice to have agreed in advance how long the interview will last and the time it will end. It is advisable to allow yourself some time to run over should this prove necessary.

Ensure that you check in with the interviewee at regular intervals throughout the interview to see if they need to take a break.

Following the interview, you should ensure that the interviewee is provided with a typed copy of the interview notes within **2 working days**.

You should provide the interviewee with **2 working days** to come back to you with corrections or clarifications.

You should endeavour to make any required edits to the interview notes as quickly as possible.

In some cases, your recollection of what was stated at interview and the interviewee's recollection may differ and you may not feel comfortable in changing the content of the interview notes. In such cases, you should insert a comment into the notes, which makes clear that the interviewee has a different recollection of what was stated at interview.

Once all changes to the interview notes have been finalised, the interview notes should be signed by you and by the interviewee. Any draft versions of the notes must be destroyed and the signed version will remain the sole official record of the interview.

The interviewee should be informed in writing that if they do not come back to you within the timeframe provided, it will be understood that they agree with the content of the interview notes.

Meeting with children and young people as part of the complaint investigation process

Children have a right to be heard, listened to and taken seriously. Taking account of their age and understanding, they should be consulted and involved in all matters and decisions that may affect their lives.

Although children and young people do not require the support of an adult to make a complaint, it is best practice to explain the activities you will undertake with young people to their parents/carers in advance.

You should refer to Tusla's safeguarding procedure for specific guidance on undertaking one-to-one work with children and young people, should this be necessary.

Support persons at interviews

Any person being interviewed as part of a complaint investigation has the right to bring a support person to the meeting if they wish. They must be informed of this right. It is important to note that this person is there to support the interviewee rather than to answer any questions.

A complainant may bring an advocate, family member or friend. A staff member may bring a work colleague (who should not be otherwise involved in the complaint investigation) or trade union representative.

During the interview, it is likely that the support person will become privy to information about the complaint, which may include sensitive personal information.

The legal basis under which this information is shared is outlined in the Section 1.7 of this procedure document titled *Legal basis for processing data*.

You must review any materials in advance of the meeting to redact any third party personal and/ or sensitive personal data. This will protect that data and ensure that only information that is necessary and proportionate to conduct the complaint investigation is provided.

The support person will also be required to sign a declaration of confidentiality regarding any information that will be shared in their presence. This will underline the vital requirement to protect the information they will have access to.

3.4 Seeking expert advice or guidance

While investigating a complaint, you may come across matters which are outside your scope of expertise and where you require appropriate information and advice to guide you.

When this occurs, you may wish to seek advice from a subject matter expert. A wide range of expertise is available within Tusla, and it is appropriate to seek subject matter expertise from a colleague who has the relevant knowledge and experience.

However, in doing so, you should ensure that there is no conflict of interest, or potential perceived conflict of interest.

Where subject matter expertise has only been available from a person who has a conflict of interest or potential perceived conflict of interest, this must be noted in the report.

You must also ensure that you share only information that is necessary and proportionate to conduct the complaint investigation with the person from whom you are seeking expert advice.

Where the complaint relates to work carried out on behalf of Tusla by an individual staff member, expert advice which relates to this work should be shared with the staff member so that they have an opportunity to respond.

3.5 Gathering information or responses to a complaint from third parties

Where it becomes necessary to gather information or responses to a complaint from third parties who are not current employees of Tusla, you should contact the Data Protection Unit to seek guidance on the potential sharing of data with, or processing of data by, third parties. This will include carrying out a risk assessment.

4.0 Analysing the information you have gathered

Once you have gathered as much information as you require to have a full understanding of the events, you will need to analyse the information to arrive at your findings and your decision.

You may find it useful to map out the following:

1. Based on the information you have gathered from case files, correspondence, staff member responses or other relevant information, how did Tusla act?
2. Based on the information you have gathered from relevant legislation, policies, procedures, protocols, guidelines, expert advice or other relevant information, how should Tusla have acted?
3. Is there a difference between how we did act and how we should have acted?
4. If yes, why is this?

A substantial portion of the analysis can often lie in determining the cause for a variance between how Tusla has acted versus how we should have acted. In analysing the cause for the difference, it may be helpful to use a systems analysis approach or a root cause approach.

Analysis will also include clarification of the impact on the complainant, as you are seeking to identify whether the complainant was or could have been adversely affected.

5.0 Findings

Your findings will include both findings of fact and also conclusions reached on the basis of those facts.

You must arrive at a finding as to whether Tusla acted in a manner that was contrary to fair and sound administrative practice. An action/ inaction is contrary to fair and sound administrative practice if it is:

1. Taken without proper authority (i.e. a breach of the relevant legislation, policy, procedure, protocol or guideline).
2. Taken on irrelevant grounds (i.e. based on or influenced by a factor that was not relevant to deciding the appropriate action to take).
3. The result of negligence or carelessness (i.e., due care and attention was not observed).
4. The result of erroneous or incomplete information (i.e. based on information that was incorrect or incomplete **and** the incorrectness or incompleteness of the information is due to Tusla's shortcomings).
5. Discriminatory (i.e. comparable situations must not be treated differently, regardless of the category of persons under consideration).
6. Based on undesirable administrative conduct (for example, insensitivity, discourtesy, disrespect or inordinate/ inexcusable delay in service).
7. In any other respect contrary to fair and sound administrative practice.

You must further arrive at a finding as to whether there was, or could have been, an adverse effect on the complainant. An adverse effect occurs when the complainant has suffered or sustained a measurable loss, detriment or disadvantage due to the action or inaction.

Your findings must include and be supported by a reasoned analysis of the issues and a coherent and compelling rationale for the findings reached.

6.0 Decisions

In deciding whether to uphold, partially uphold, or not uphold a complaint, you may wish to ask yourself the following questions:

1. (a) Was there a difference between how Tusla acted and how we should have acted?
(b) Did we act in a way that was contrary to fair and sound administrative practice?
2. (a) Was there, or could there have been, an adverse effect on the complainant (including distress caused to the complainant)?
(b) If yes, was this avoidable or could it have been mitigated if Tusla had acted in a different manner?

If the answer to all of the above is 'yes', then you must **uphold** the complaint.

If the answer to only one or some of the above is 'yes', then you should consider whether to **partially uphold** the complaint.

If the answer to all of the above is 'no', then you must **not uphold** the complaint.

7.0 Recommendations

Having gathered information, conducted an analysis, and arrived at findings and a decision, you must now make recommendations.

Your recommendations must be clearly linked to, and based on, your analysis and findings.

There must be at least one recommendation which addresses each complaint issue. A recommendation may address more than one issue.

Where you do not uphold a complaint issue, you must make at least one recommendation (even if this recommendation is that no further action is required).

In general, especially where you have upheld or partially upheld a complaint issue, you will make one or more of the following types of recommendations:

1. Resolving
This type of recommendation seeks to remove or mitigate, as far as possible, the adverse effect on the complainant. This can include recommendations such as moving a complainant to a particular place on a waiting list, providing a meaningful apology, or another form of redress.
2. Preventing
This type of recommendation seeks to address the cause for a difference between how Tusla should have acted and how we did act. It seeks to prevent the same type of circumstance from arising again in the future. It may be helpful to make use of the Hierarchy of Control Measures, which can be found in Tusla's *Organisational Risk Management Policy and Procedure*.
3. No action
This type of recommendation is **only** appropriate where the complaint issue has a decision of **not upheld**. In general, the recommendation in this instance would be that no further action is required, or that the complaint issue is now closed.

You should also bear in mind that, under Part 9 of the Child and Family Agency Act 2013, a Complaint Officer **may not** make a recommendation which would require or cause:

1. A material amendment to Tusla's Business Plan or Corporate Plan; or
2. A material amendment to a Service Level Agreement between Tusla and a service provider.

When making recommendations, you should ensure that you follow the SMART model:

| | |
|--------------------|--------------------------------------------------------------------|
| S pecific | What exactly is required and who is required to do it? |
| M easurable | How will it be possible to demonstrate that action has been taken? |
| A chievable | Can this recommendation realistically be put in place? |
| R elevant | Will this recommendation address the issue? |
| T ime-bound | When should this recommendation be implemented by? |

8.0 Composing the draft complaint investigation report

When composing the complaint investigation report, you should use the complaint investigation report template provided.

You should detail the methodology used and steps undertaken to investigate the complaint.

You should clearly define the complaints that were investigated. For each complaint issue, include the findings, decision and recommendation(s) you reached through your complaint investigation, making sure to integrate any responses from staff members.

You should write in plain English, using clear language and avoiding jargon or technical terms where possible. Ensure you explain any abbreviations you use.

Ensure that the complaint investigation report includes information about the complainant's right to request a complaint review within **30 working days** of the date the complaint investigation report is issued.

Ensure that the complaint investigation report includes information about the complainant's right to contact the Office of the Ombudsman/Ombudsman for Children's Office.

Ensure that the complaint investigation report includes information about who is/are the responsible service manager(s) in relation to each recommendation(s) made. This is important where the implementation of recommendations needs to be tracked or accounted for. Ensure that you include information that the complainant will receive an update on the implementation of the recommendation(s) from the responsible manager(s) within **30 working days**.

8.1 Naming conventions in complaint investigation reports

The approach to report writing will focus accountability on the Agency and appreciates the personal data rights of staff. Complaint reports are not published, but cease to become internal documents once issued to complainants. The approach taken by Tusla is that staff job titles and not personal names are utilised in complaint investigation reports. However, it is appreciated that some latitude to adapt the naming convention may be needed in a specific case if considered appropriate by the complaints officer.

Where more than one staff member with the same title is referenced in the report, the use of a number and a service area will ensure that the report remains clear. For example, “*Social Worker 1 from fostering services and Social Worker 2 from child protection and welfare services both attended this meeting*”.

Using this approach also makes it clear that it is the role and function (not the name) of a staff member that is of relevance in respect of any actions they took or did not take on behalf of Tusla.

Likewise, the name of the complainant or other service users/members of the public must not be used in complaint review reports. Designations such as *Complainant*, *Service User*, or *Member of the Public* may be used. Again, where more than one individual is referred to, it is acceptable to add a number to the designation.

In order to support internal management of the complaint investigation, recommendations arising out of the investigation, and the implementation of recommendations and learning, a separate document which identifies the name, job title and work contact details of each staff member and manager referenced in the report **must** be created. This document, referred to as a ‘key’, **must** be included in the complaint file and saved to NIMS. It will not be issued to any party in the complaint, apart from those who are responsible for the implementation of recommendations, where knowledge of the identity of the parties concerned is required in order to implement the recommendations.

9.0 Provisional findings, including adverse findings

A provisional adverse finding occurs if, following a full investigation of the complaint, you are minded to make a decision to uphold or partially uphold a complaint relating to work carried out by Tusla.

Where **any** provisional finding relates to the work carried out by an individual staff member on behalf of Tusla, you must provide a draft of the provisional findings, decision and relevant recommendation(s) to the staff member concerned. They must be provided with the opportunity to respond. This is in the interest of both factual accuracy and of providing a right of reply to the staff member.

All adverse findings should be contextualised – both in terms of what occurred and any proposed recommendation.

You must allow the staff member sufficient time to consider the provisional findings, decision and recommendation(s). Depending on the circumstances, a timeframe of **5 working days** will usually be sufficient. Where necessary this can be extended if required.

You must clearly indicate to the staff member the date that a response will be required. You must advise the staff member that if no response is received, then the staff member will be understood to have no comment. Under these circumstances, no changes will be made to the draft report and it will issue as is.

The staff member may share the provisional findings with their line manager or trade union representative should they wish, for the purposes of support. In general, however, the line manager does not have a right of reply to provisional findings relating to the staff member.

You must consider any response provided by the staff member. Based on the response, you may decide to add to the findings, alter the decision(s) or recommendation(s), or not to make any alteration. Whatever your decision, the response of the staff member to the original draft should be integrated into the final complaint investigation report.

The final complaint investigation report must be sent to the staff member.

If the staff member remains dissatisfied with the final complaint investigation report, you should advise them of their option to pursue the matter further, through the HR grievance procedure. You must also advise the staff member that the complaint investigation report will still issue and is not delayed by the taking of a grievance procedure.

10.0 Issuing the complaint investigation report

When the complaint investigation report is finalised and ready for issue, you should issue a copy of it to the relevant stakeholders, including the complainant, the service manager for the service that the complaint refers to, relevant staff, and those responsible for implementing recommendations. Where appropriate, other stakeholders may also be issued with a copy.

When providing stakeholders with a copy of the report, each copy of the document should be individualised with a watermark which identifies the stakeholder by title (e.g. *Complainant Copy* or *Social Worker 1 Copy*).

When issuing a document to a complainant, consideration should be given to whether a meeting is required to ensure the contents of the document are understood, particularly where they are a minor, or have additional needs, or where the complaint is especially complex.

It is important to note that complaint investigation reports are not published (i.e. they are not placed on a publicly available platform). However, they are issued in full to all parties to the complaint.

Complaint investigation reports can be and are used for learning from complaints, and learning documents containing non-identifying information may be published.

All data protection obligations must be met both during the report writing process and at the time of issue.

Appendix 1: Schedule of templates and tools

Relevant tools and templates available on the Tusla HUB

| Reference | Stage | File name | Summary |
|-----------|---------------|-------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| CTB1 | Determination | CTB1 - Determination checklist | Determination checklist for Complaint Officers |
| CTB2 | Investigation | CTB2 - Chronology of events for Complaint Officers | Chronology of events template for Complaint Officers |
| CTB3 | Investigation | CTB3 - Interview plan and notes for Complaint Officers | Interview plan and notes template for Complaint Officers |
| CTB4 | Investigation | CTB4 - Mapping tool for Complaint Officers | Mapping tool for Complaint Officers |
| CTB5 | Investigation | CTB5 - Fishbone analysis for Complaint Officers | Fishbone analysis template for Complaint Officers |
| CTB6 | Investigation | CTB6 - SMART recommendation template for Complaint Officers | SMART recommendation template for Complaint Officers |
| CRK | Investigation | CRK - Key for complaint investigation report | Template key to record names, job titles and contact details of individuals referenced in report, along with the designation given in the report |
| CAA | Determination | CAA - Authority to act form | Authority to act form for a complaint made on behalf of another person |
| CTL1 | Determination | CTL1 - Excluded under policy | Determination that the matter is excluded from investigation under the Tell Us policy, but has been referred to an alternative process within Tusla. |
| CTL2 | Determination | CTL2 - Excluded under legislation | Determination that the matter is excluded from investigation under the legislation. |
| CTL3 | Determination | CTL3 - No grounds for complaint | Determination that grounds for a complaint are not present. |
| CTL4 | Determination | CTL4 - Trivial, vexatious, not good faith | Decision not to proceed because complaint is trivial/ vexatious/ not made in good |
| CTL5 | Determination | CTL5 - Matter resolved | Decision not to proceed to investigation because complaint has been resolved |
| CTL6 | Determination | CTL6 - Complaint Officer resolution | Complaint Officer resolution letter |
| CTL7 | Determination | CTL7 - Requesting identity docs | Letter requesting photo ID, proof of address, or similar documents to confirm identity of eligible person |
| CTL8 | Determination | CTL8 - Requesting authority to act | Letter requesting signed authority to act on behalf of the person on whose behalf the complaint is being made |

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|-------|---------------|---------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| CTL9 | Determination | CTL9 - Age, illness, disability - eligibility | Letter requesting evidence that the person is unable to make the complaint on their own behalf, and that the complainant falls into one of the categories entitled to make a complaint on their behalf |
| CTL10 | Determination | CTL10 - Deceased - eligibility | Letter requesting evidence that the person is deceased, and that the complainant falls into one of the categories entitled to make a complaint on their behalf |
| CTL11 | Determination | CTL11 - Not eligible | Decision not to proceed on the grounds that the person making the complaint is not/ has not provided evidence that they are eligible to do so |
| CTL12 | Determination | CTL12 - Outside timeframe | Decision not to proceed on the grounds that the complaint has been made outside the time frame |
| CTL13 | Determination | CTL13 - Decision to proceed | Decision to proceed to investigation |
| CTL14 | Investigation | CTL14 - Letter to complainant advising of extension | Letter to complainant/ relevant staff member(s) when expected completion date will not be met |
| CTL15 | Investigation | CTL15 - Letter to staff member advising of extension | Letter to complainant/ relevant staff member(s) providing update on status of complaint |
| CTL16 | Investigation | CTL16 - Letter to staff member notifying of complaint | Letter notifying a staff member of a complaint |
| CTL17 | Investigation | CTL17 - Letter to line manager notifying of complaint | Letter notifying a line manager of a complaint |
| CTL18 | Investigation | CTL18 - Letter requesting written submission | Letter requesting a written response |
| CTL19 | Investigation | CTL19 - Letter inviting to interview | Letter inviting a staff member/ complainant/ other relevant person to interview |
| CTL20 | Investigation | CTL20 - Letter with draft interview notes | Letter including draft interview notes |
| CTL21 | Investigation | CTL21 - Letter with finalised interview notes | Letter including finalised interview notes |
| CTL22 | Investigation | CTL22 - Letter with provisional findings and factual accuracy | Letter to individual staff member when findings in the complaint investigation report refer to work carried out by them on behalf of Tusla |

Appendices

| | | | |
|-------|---------------|--------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| CTL23 | Investigation | CTL23 - Letter advising of right to HR grievance | Letter informing staff member of their right to pursue the matter through the HR grievance procedure/ decision to issue the complaint investigation report |
| CTL24 | Investigation | CTL24 - Cover letter to complainant | Template cover letter to complainant when issuing complaint investigation report |
| CTL25 | Investigation | CTL25 - Cover letter to line manager | Template cover letter to service manager when issuing complaint investigation report |
| CTL26 | Investigation | CTL26 - Cover letter to staff member | Template cover letter to individual staff member when issuing complaint investigation report |
| CTR | Investigation | CTR Complaint Investigation Report | Template complaint investigation report |

Appendix 2: Definitions and interpretations

In this procedure document, the following terms have the following meanings:

Action

Section 60 of the Child and Family Act, 2013, defines 'action' as meaning anything done or failed to be done.

An action can be an act or a decision.

Adverse finding

An adverse finding is a finding that may be viewed as unfavourable to the individual or service it relates to.

Advocate

An advocate supports or represents the views of anyone looking for information, giving feedback or making a complaint to Tusla.

They do so with the authority of the person concerned.

Clinical judgment

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

The person making a clinical decision or forming an opinion in connection with the diagnosis, care or treatment of a patient must be suitably qualified and registered with a Professional Body.

See Section 48 (1) (c) of the Health Act, 2004.

Close relative

A close relative is a person who is cohabiting with the other person or is their:

- parent
- guardian
- son
- daughter
- spouse
- civil partner

The above is included in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act, 2010.

| |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Complainant |
| The person making the complaint to Tusla. |
| Complaint investigation |
| <p>The process where the Complaint Officer gathers and assesses information. They do this to find out if Tusla has done, or not done, something which:</p> <ul style="list-style-type: none"> • was contrary to fair and sound procedure • had an adverse effect on someone. |
| Complaint review |
| <p>A complaint review is where the Complaint Review Officer considers the relevant recommendations arising from the complaint investigation.</p> <p>They decide if they have been arrived at correctly and if they address the issues complained about.</p> |
| Complaint Officer (CO) |
| A Complaint Officer is responsible under the Child and Family Agency Act, 2013, for investigating complaints received by Tusla. |
| Complaint Review Officer (CRO) |
| A Complaint Review Officer is responsible under the Child and Family Agency Act, 2013, for conducting complaint reviews. |
| Compliment |
| A compliment is when a member of the public or service user praise, commends or admires an action of Tusla or a Tusla staff member. |
| Comment |
| A comment is when a service user or member of the public makes a verbal or written remark in relation to an action of Tusla or a Tusla staff member. |
| Authority to act in relation to a complaint on behalf of someone else |
| Authority to act on another person's behalf in relation to a complaint means a freely given, specific and informed agreement which is written or documented to the satisfaction of the relevant staff member. |

Decision

In a complaint investigation, the decision could be to:

- uphold the complaint
- partially uphold the complaint, or
- not uphold the complaint.

In a complaint review, the decision could be to:

- uphold the original recommendation or recommendations
- vary the original recommendation or recommendations, or
- make new recommendation or recommendations.

These decisions are made by the Complaint or Complaint Review Officers respectively.

Determine

To 'determine' means to find out if the complaint meets the criteria for being processed under the Policy.

This step fulfils the requirements of preliminary investigation as outlined in Part 9 of the Child and Family Agency Act, 2013.

Due process

Due process means that all legally based procedures must be fair.

Fair procedure

Fair procedure means no one should be judged without a fair hearing. Each party should be given the chance to respond to the evidence against them.

Findings

Findings are the information found or the conclusions reached based on that information.

Feedback

Feedback is any information provided by service users and the public that can help improve the quality of the service provided. Feedback includes comments, compliments and complaints.

NIMS

Tusla uses the National Incident Management System (NIMS) to record and manage all complaints. NIMS is a highly secure, GDPR-compliant web-based platform hosted by the State Claims Agency.

Recommendation

A recommendation in this policy is when we suggest an act or course of action.

When the Complaint Officer or Complaint Review Officer suggests action to:

- remedy the situation
- prevent it from recurring, or
- to improve services.

Resolution

A resolution in this policy is when we settle, or find a solution to, a problem or a contentious matter.

Right of reply

Right of reply means that when a staff member has had a complaint made about their work, or a potentially negative/adverse finding about their work, they have the right to see and respond to it.

Service provider

A 'service provider' is someone who arranges under Section 56 or 58 of the Child and Family Agency Act, 2013, to provide services for or on behalf of Tusla.

Service user

A service user is someone who has received, is receiving, has sought or is seeking a service from Tusla or one of our service providers.

'We', 'us' or 'our'

Means 'The Child and Family Agency (Tusla)'.

Appendix 3: LEARN model for local resolution of complaints





TÚSLA

An Ghníomhaireacht um
Leanaí agus an Teaghlach
Child and Family Agency

www.tusla.ie