

**HSEA**  
**63/64 Adelaide Road**  
**Dublin 2**

**Tel: 01-6626966**  
**Fax: 01-6626977**

**Email: [info@hsea.ie](mailto:info@hsea.ie)**

# **Trust in Care**

**Guidelines for Health Service Employers  
On Preventing Patient/Client  
Abuse and Dealing  
with allegations of  
abuse against employees.**

## **Table of Contents**

	<b>Introduction .....</b>	<b>2</b>
<b>Chapter 1</b>	<b>Objectives.....</b>	<b>3</b>
<b>Chapter 2</b>	<b>Abuse Prevention .....</b>	<b>4</b>
	2.1 Human Resource Policies .....	4
	2.2 Policy Statement on Abuse .....	4
	2.2.1 Introduction to the policy statement .....	5
	2.2.2 Definition of abuse .....	6
	2.2.3 Reporting procedures .....	7
	2.3 Communicating the Policy Statement .....	9
<b>Chapter 3</b>	<b>Managing allegations of abuse .....</b>	<b>11</b>
	3.1 Notifying the staff member against whom the allegation is made..	11
	3.2 Appoint a person to oversee the investigation process .....	12
	3.3 Establishing the investigating team .....	12
	3.4 Time limits .....	13
	3.5 Informing relatives/guardians .....	13
	3.6 Witnesses .....	13
	3.7 Anonymous allegations .....	14
<b>Chapter 4</b>	<b>Conducting the Investigation .....</b>	<b>15</b>
	4.1 The investigative process .....	15
	4.2 Conclusions of the investigating team .....	16
<b>Chapter 5</b>	<b>Follow-on Action .....</b>	<b>17</b>
	5.1 Abuse has not occurred .....	17
	5.2 Abuse has occurred .....	17
<b>Chapter 6</b>	<b>Contacting An Garda Siochana .....</b>	<b>19</b>

---

## Introduction

---

Dignity and freedom are essential components of the quality of life for all people. This concept should form an integral part of the ethos of health care agencies and be reflected in the culture and attitudes that inform service provision.

Health agencies have a corporate responsibility to protect the welfare of patients/clients and to provide a caring environment in which abuse does not occur and patients/clients are treated with dignity and respect at all times. In order to discharge this responsibility, health agencies must ensure that their staff adhere to high standards of behaviour and understand their obligations to report suspicions or allegations of abuse.

These guidelines on preventing patient/client abuse and managing allegations against staff members were produced by the Health Service Employers Agency (HSEA) at the request of the Department of Health and Children. For the purpose of drawing up these guidelines, the HSEA convened a working group of health service managers and human resource specialists and the Irish Business Employers Confederation (IBEC) provided the legal expertise. Following preparation of a draft document, the working group consulted extensively with all the unions representing health service staff.

It is recommended that the implementation of the guidelines be carried out in consultation with local staff representatives to ensure local ownership. It is further recommended that the local policy be promulgated as widely as possible throughout the organisation. This should involve briefing sessions for all staff members to ensure that they fully understand the standards expected from them and the reporting procedures to be followed in the event of abuse being suspected or alleged.



---

## Chapter 1 Objectives

---

### ***Objective of the guidelines***

These guidelines are intended to assist health agencies in devising local policies and procedures on the prevention and reporting of abuse, thereby ensuring that staff are aware of their obligations in terms of abuse prevention and the action they should take in the event of abuse being witnessed, suspected or alleged. The guidelines also set out the procedures which agencies should follow for investigating allegations of abuse against staff members. These procedures are intended to protect the safety of patients/clients whilst acknowledging the organisation's duty of care towards the staff member against whom the allegation is made.

These guidelines apply to all categories of staff (including clinical and medical staff) employed in the health service.

Organisations providing contracted services, visiting or seconded staff, volunteers and other persons providing a service to patients/clients should be made aware of the agency's policy on the prevention and reporting of abuse.

It should be noted that these guidelines are not intended to replace any existing national guidelines on abuse and, in particular, should be read in conjunction with *Children First: Guidelines for the Protection and Welfare of Children* (Department of Health and Children, 1999).

**This document is intended to give guidance to health service employers and does not purport to be a legal or definitive document. It will be revised to take account of new case law and other developments in this area.**

---

## **Chapter 2      Abuse Prevention**

---

### **2.1 Human Resource Policies**

The following elements of the agency's HR policies should form an integral part of the agency's strategy on combating abuse:

- (i) Rigorous application of the recruitment procedures to ensure that staff with caring responsibilities have been properly assessed;
- (ii) Communication of the agency's value system to new staff at induction and ensuring that staff understand how these core values should be reflected in their everyday conduct;
- (iii) Proper assessment of new staff during their probationary period to establish their suitability and to ensure that they are operating to a high standard of care;
- (iv) Informing staff of the protocols to be observed when conducting investigative examinations on patients/clients;
- (v) Ongoing training and education to reinforce the agency's values and standards of care;
- (vi) Training for line managers in dealing with staff whose conduct or standard of care falls below the required standards.

### **2.2 Policy Statement on Abuse**

Each agency should prepare its own policy statement which demonstrates its commitment to providing an environment in which patients/clients are treated with dignity and outlines the procedures to be followed by staff in the event of abuse being suspected or alleged. It is recommended that a staff member within each agency be assigned responsibility for co-ordinating the preparation of the policy statement and ensuring that it is effectively promulgated throughout the organisation.

The policy statement should contain the following elements:

- Introduction to the policy statement

- Definition of abuse
- Reporting procedures

### **2.2.1 Introduction to the policy statement**

The introduction to the policy statement should incorporate the following principles:

- The agency has primary responsibility for safeguarding the welfare of patients/clients and will not tolerate any form of behaviour which undermines a patient/client's physical or emotional well-being;
- All staff have a responsibility to give priority to the welfare of patients/clients and to report any concerns they may have that a patient/client is or has been abused;
- Staff who are uncertain about reporting another staff member's behaviour should discuss the matter with their supervisor, other member of management or designated officer on the understanding that the matter will be treated with the utmost discretion;
- Any staff member who reports concerns of abuse in good faith will be supported throughout the process and protected against victimisation or retaliation.
- Any staff member against whom an allegation is made shall be treated in accordance with the principles of natural justice.
- Any staff member against whom an allegation has been made which is subsequently found to be false or malicious should receive a formal acknowledgement from the agency that s/he has been exonerated. The staff member concerned should also be provided with professional counselling if requested.

### **2.2.2 Definition of abuse**

It is not possible to give a definitive or comprehensive description of abuse.

However, the policy statement should give clear guidance on the range of behaviour that may be considered to constitute abuse.

Abuse may be physical, sexual, psychological or emotional in nature or it may occur through neglect. It may form a continuum which ranges from minor breaches of policy or rules to indecent assault. It may consist of a single act or a catalogue of incidents.

#### **Neglect**

Neglect may be defined in terms of an act or omission, where a patient/client is routinely deprived of food, clothing, entitlements, warmth, hygiene, intellectual stimulation, supervision and safety, attention from staff or medical care.

*It should be noted that no staff member should be held responsible for issues that arise from organisational deficiencies.*

#### **Emotional/Psychological Abuse**

Emotional abuse may arise in the relationship between a staff member and a patient/client in a residential or long-stay institution. It is a consequence of the patient/client's needs for affection, approval, consistency and security not being met. Examples of emotional abuse may include:

- (i) persistent criticism, sarcasm, hostility or blaming;
- (ii) unresponsiveness;
- (iii) failure to show interest in, or provide appropriate opportunities for, a client/resident's cognitive and emotional development or need for social interaction;
- (iv) use of unreasonable or unduly harsh disciplinary measures;
- (v) disrespect for differences based on social class, gender, race, culture, disability, religion or sexual orientation.

*These examples are not exhaustive*

### **Physical abuse**

Physical abuse is any form of non-accidental injury that causes harm or could cause harm to a patient/client. It may involve:

- (i) hitting, shaking, slapping, burning or biting;
- (ii) deliberate poisoning
- (iii) giving inappropriate medication, alcohol or illegal substances;
- (iv) suffocation;
- (v) the use of excessive force when dressing, bathing, toileting, nappy changing or feeding;
- (vi) unnecessary restraint.

*These examples are not exhaustive*

### **Sexual abuse**

Sexual abuse occurs when a patient/client is used by a staff member for his/her gratification or sexual arousal. Examples of sexual abuse include:

- (i) intentional touching, fondling or molesting;
- (ii) inappropriate and sexually explicit conversations or remarks;
- (ii) exposure of the sexual organs or any sexual act intentionally performed in the presence of the patient/client;
- (iii) exposure to pornography or other sexually explicit and inappropriate material;
- (iv) sexual assault;
- (v) sexual exploitation of a child or vulnerable adult, including any behaviours, gestures or expressions that may be interpreted as being seductive or sexually demeaning to a patient/client;
- (vi) consensual sexual activity between a staff member and a child under 17 years or between a staff member and a vulnerable adult.

*These examples are not exhaustive.*

### **2.2.3 Reporting Procedures**

The policy statement on abuse should set out the reporting procedures to be followed by staff in the event of abuse being suspected or alleged. The reporting procedures should provide that staff discuss their concerns with their *immediate supervisor*. In the event that a staff member feels inhibited for any reason from reporting his or her concerns to the immediate supervisor or is unhappy with the outcome, s/he should discuss the matter with a more senior member of management.

#### **a) Staff member receives a complaint of abuse from a patient/client**

A staff member who receives a complaint of abuse from a patient/client should encourage the complainant to put the complaint in writing and provide whatever assistance is necessary to facilitate the patient/client. The written complaint should contain as much detail as possible including dates, times and any witnesses to the alleged incident. The staff member should then report the complaint immediately to his/her supervisor.

If the patient/client is unable to formulate the complaint in writing (e.g. due to a learning disability) or is unwilling to make a written complaint, the staff member should note the details of the alleged incident(s) as recounted by the patient/client.

The procedure may also contain guidelines on dealing with complaints of abuse from patients/clients, e.g.:

- Encourage the patient/client to give as much detail as possible but avoid asking “leading questions”, i.e. questions which suggest certain actions might have occurred or which name particular people who may have been involved.
- Do not press the patient/client for details beyond that which s/he is willing to disclose.
- Do not promise to keep the information a secret.

**(b) Staff member suspects abuse**

A staff member who suspects that a patient/client may have been abused due to the presence of “abuse indicators” should discuss the matter with his/her immediate supervisor. Proper training should be given to ensure that staff understand what constitutes “abuse indicators”. It is recommended that staff be given written guidelines to assist them in distinguishing physical and emotional indicators of abuse from “routine” injuries or patterns of behaviour.

**(c) Staff member observes another staff member engaging in abusive behaviour towards a patient/client**

A staff member who witnesses another staff member engaging in abusive behaviour towards a patient/client should intervene or seek help to stop the behaviour. The staff member should ensure that the patient/client is not in any immediate danger and receives the necessary treatment and support. The staff member should then immediately report the incident to his/her supervisor and complete a written report as soon as possible (preferably before going off duty) or within a fixed timeframe.

**(d) Staff member receives a complaint of abuse from a member of the public**

A staff member who receives a complaint of abuse from a member of the public that another staff member has engaged in abusive behaviour towards a patient/client should note the details of the alleged incident and obtain the name and address of the complainant. S/he should inform his/her supervisor of the complaint immediately.

If a staff member receives a complaint outside the scope of his/her employment (e.g. in a social setting), s/he should advise the complainant to visit the agency and formally report the complaint.

Where appropriate, the policy should refer to the fact that the *Protection for Persons Reporting Child Abuse Act, 1998* provides immunity from civil liability to persons who report child abuse “reasonably and in good faith” to designated officers of health boards or any member of An Garda Síochána.

## **2.3. Communicating the Policy Statement**

The policy statement should be circulated to all staff with a covering letter asking them to acknowledge that they have read the document. It should also be distributed to all visiting or seconded staff, volunteer or other persons who provide services to patients/clients.

It is recommended that line managers ensure that all staff in their department understand their responsibilities under the policy and are familiar with the reporting procedures to be followed. These briefing sessions also provide an opportunity to highlight management's commitment to be fully supportive of any staff member who reports concerns of abuse in good faith. It is important to reassure staff that victimisation of witnesses will not be tolerated.

It is recommended that line managers receive training to enable them to explain the policy to staff under their supervision and to deal with reports of abuse. Such training should highlight the need for line managers to be vigilant at all times and to take appropriate action if any staff member under their supervision is not adhering to the required standards of care.

The policy should be included as part of the formal induction programme for new employees and reinforced through ongoing training and education.

The policy should be manifest, alive and visible throughout the Board/Hospital. It is recommended that flow charts with key statements from the policy be placed in appropriate vantage points throughout the agency. Copies of the policy should also be readily available to patients/clients and members of the public.

---

## Chapter 3      Managing allegations of abuse

---

When a complaint of abuse is made, there are two sets of procedures which may be followed depending on the nature of the alleged abuse. In some cases (e.g. minor breaches of agency policy or rules) it may be appropriate for the line manager to investigate the complaint and to decide whether further action is warranted. The line manager should keep a record of the complaint and how it was dealt with.

If the staff member against whom the complaint is made is unhappy with the outcome, s/he may refer the matter through the grievance procedure.

While line managers should be empowered to decide on the appropriate course of action in respect of such a complaint, they should be aware that a relatively minor complaint could, in fact, be indicative of a more serious problem. Line managers should therefore be encouraged to liaise with other professionals when in doubt.

*Where it is not appropriate for the complaint to be dealt with locally and investigated at that level, the matter should be referred to senior management. It is recommended that the following procedure should apply in such cases:*

### **3.1.    Notifying the staff member against whom the allegation is made**

The staff member's right to natural justice must be respected throughout the investigation. As soon as possible following receipt of the complaint, management should inform the staff member concerned of the allegation being made against him/her and that s/he is required to attend a meeting to hear the details of the complaint. The staff member should be advised of his/her right to be accompanied by a representative.

The staff member should be furnished with a copy of the complaint at the meeting and afforded an opportunity to make an initial response to the allegation if s/he so wishes.

Once management are satisfied that there is sufficient evidence to warrant a formal investigation, they should take whatever protective measures are necessary to ensure that no patient/client is exposed to unnecessary risk. Such measures may include:

- putting the staff member off duty with pay;
- reassigning the staff member to other duties;
- providing a chaperone.

### **Role of the staff representative**

The employee representative has an important role to play in supporting the employee and should be allowed to assist him/her in responding to the allegation. The representative would not normally answer questions on the employee's behalf but should be allowed to ask questions and make representations on behalf of the employee. The employee and his/her representative should also be permitted to confer privately if requested.

### **3.2 *Appoint a person to oversee the investigation process***

Senior management should appoint an appropriate person to take responsibility for arranging an investigating team and overseeing the investigation process. Suitable persons for this role may include a personnel officer, hospital manager, programme manager or department head.

### **3.3 *Establishing the investigating team***

The investigating team should ideally consist of between two to five persons who have the necessary expertise to conduct an investigation impartially and expeditiously. Where appropriate, the investigating team may request appropriately qualified persons to carry out medical assessments, validation exercises, etc.

The **terms of reference** for the investigation should be formulated in writing and set out the precise nature of the allegation. The terms of reference should specify if the investigating team is confined to forming conclusions as to the guilt or otherwise of the employee or if its remit extends to recommending an appropriate course of action.

### **3.4. Time Limits**

Every effort should be made to complete the investigation as soon as possible, particularly if the staff member has been put off duty pending the outcome of the investigation. Where possible a timeframe for completing the investigation should be agreed. This time limit should only be breached in exceptional circumstances, e.g. the case may be particularly complicated or essential witnesses may be unavailable.

### **3.5. Informing relatives/guardians\***

Where appropriate, the patient/client's immediate relatives or guardian should be notified by an appropriate member of management as soon as practicable and advised that an investigation into the allegation is being carried out. *The identity of staff member against whom the allegation is made must not be disclosed at this stage.* The relatives/guardian should also be assured that the patient/client has received appropriate support or treatment and that appropriate measures have been taken to ensure that no patient/client is at risk.

Relatives/guardians who were previously notified should be informed of the outcome of the formal investigation and any subsequent action.

*\*Some patients/clients may not wish to have matter reported to their relatives/guardian.*

### **3.6 Witnesses**

Witnesses should be given sufficient notice of when they will be interviewed by the investigating team and reassured that they will be fully supported throughout the process.

It should be impressed upon staff that they are obliged to respect the privacy of the parties involved and to refrain from discussing the matter with other work colleagues or persons outside the organisation, unless authorised to do so. Staff should be advised that any breach of confidentiality will be considered a serious offence and may be subject to disciplinary action.

### **3.7 Anonymous Allegations**

Anonymous allegations cannot lead to a formal investigation unless there is supporting evidence as there is always the possibility that they are vexatious.

Notwithstanding the fact that anonymous allegations cannot be the subject of a formal investigation, the staff member concerned should be informed of the details of the allegation and given the opportunity to respond. The staff member should be advised of his/her right to representation.

---

## **Chapter 4. Conducting the Investigation**

---

It is important to ensure that the investigation is handled with sensitivity and with due respect for the rights of the complainant and the staff member against whom the allegation is made.

### **4.1 *The investigative process***

1. The precise nature of the allegation should be clearly formulated in writing and this should be used to set the terms of reference for the investigation. The terms of reference should also make it clear whether or not the investigating team is expected to make recommendations as to the appropriate course of action.
2. The investigating team should interview the complainant, witnesses and any other relevant persons in order to elicit all the facts pertaining to the allegation.
3. The investigating team should meet with the staff member against whom the allegation is made to present the evidence and allow him/her to respond. This hearing should be carried out with due regard to the rights of the staff member for a fair and impartial determination of the allegation. The staff member should be informed in writing that s/he has a right to representation which includes the right to put questions to the investigating team and raise whatever issues s/he deems appropriate. The staff member should also be furnished with the following documentation to allow him/her to prepare for the hearing:
  - Copy of the complaint;
  - Copies of statements from witnesses;
  - Copies of any reports, e.g. medical/validation reports;
  - Any other documentation which may be relied upon at the hearing;

## **4.2 Conclusions of the investigating team**

Where there is a conflict of evidence between the accused employee and witnesses, the investigating team may form its conclusions based on the credibility of the evidence presented by each side. For example, if the employee vehemently denies the allegation but the investigating team finds the evidence of witnesses more convincing, it may conclude that, on the balance of probability, the alleged abuse occurred.

In certain cases the investigating team may rely on the evidence of appropriately qualified experts who have conducted validation interviews with the patient/client.

The investigating team should submit its report to the person overseeing the investigative process. This person should be satisfied that the report deals adequately with the allegations in accordance with the terms of reference.

If the report of the investigating team concludes that the staff member was responsible for the alleged abuse, the matter should be referred to the chief executive officer or other senior member of management who is empowered to make decisions regarding disciplinary action.

---

## **Chapter 5      Follow-on action**

---

### **5.1    *Abuse has not occurred***

- Where the complaint is not upheld, management should ensure that the reputation and career prospects of the staff member concerned are not adversely affected by reason of the complaint having been brought against him/her. The staff member should be offered counselling and any other support necessary to restore his/her confidence and morale.
- The staff member who made the complaint should be reassured that management appreciates that the complaint was made in good faith and are anxious to ensure that the culture of reporting any perceived concerns regarding patient/client safety and well-being would be maintained.
- Where a complaint has been made by one staff member against a colleague in the same work location, every effort must be made to restore normal working relations between the parties.
- Where it is found that a report of abuse was brought maliciously, the staff member who made the complaint should be dealt with under the disciplinary procedure.

### **5.2    *Abuse has occurred***

- Where the alleged abuse is believed to have occurred, this can have an adverse effect on staff morale. It is therefore recommended that every assistance be made available to staff who have been affected by the allegation to help them to come to terms with what has happened and to restore normal working relationships. It is also important to restore staff confidence in the values and standards of care espoused by the agency.

- The patient/client who has been the victim of the abuse and, where appropriate, his/her family should be provided with every assistance and counselling to ensure their full recovery from the trauma suffered as a result of the incident.
- Management may notify the relevant professional association where it is deemed appropriate.

---

## **Chapter 6      Contacting An Garda Siochana**

---

Even where the alleged abuse could potentially constitute a criminal offence, the agency must conduct an internal investigation into the allegation and take appropriate action in the context of the employer/employee relationship.

Senior management must decide at what stage to contact the gardai on a case-by-case basis. Where the gardai are notified, the agency must conduct its own independent investigation in parallel with the criminal investigation.

If the staff member refuses to co-operate with the internal investigation pending the outcome of criminal proceedings, this should not deter the agency from proceeding with its investigation. The staff member should be advised that if s/he is not prepared to co-operate with the internal investigation, the agency will have to form its conclusions on the basis of the information available and then proceed to take appropriate action (which could include dismissal).

It should be noted that an allegation of abuse against an employee is an employment matter which must be investigated by the agency itself. The agency must be satisfied on the balance of probability that the alleged abuse occurred but does not have to prove the case beyond all reasonable doubt. In other words, the agency must form a reasonable belief that the employee committed the alleged abuse and take disciplinary action accordingly.