

## **Procedures for dealing with Complaints under Section 38 of the Disability Act, 2005**

A complaint may be made against the Department if it does not comply with the provisions of Sections 25, 26, 27 and 28 of the Disability Act, 2005. These Sections of the Act relate to access by persons with disabilities to:

- the Department's public buildings;
- the Department's schemes and services;
- services supplied to the Department; or
- information.

In accordance with Section 39 (2) of the Disability Act, 2005<sup>1</sup> the following are the procedures for making and investigating such complaints.

### **Making a complaint**

1. A complaint may be made by a person, or through his or her:

- spouse/partner, parent or relative;
- guardian or a person acting *in loco parentis* to that person;
- legal representative;
- personal advocate, assigned by the Citizens Information Board to represent that person;

or by another person advocating on behalf of that person with his or her consent.

2. A complaint must be made in writing, which can include fax or e-mail, and should provide all contact details, including the Personal Public Service Number if available, for the person making the complaint.

3. The complaint should state that it is a complaint under Section 38 of the Disability Act 2005 and should, in so far as is possible, set out as clearly as possible the grounds for the complaint regarding the failure of the Department to provide access to its schemes and services.

4. The complaint must be made to:  
The Secretary General,  
Department of Social Protection,  
Áras Mhic Dhiarmada,  
Store Street,  
Dublin 1.

The relevant fax and e-mail details are as follows:

Fax: (01) 7043721

E-Mail: [secretary.general@welfare.ie](mailto:secretary.general@welfare.ie)

5. Following the receipt of a complaint, the Secretary General will refer the matter to an Inquiry Officer<sup>ii</sup> and will advise the person making the complaint accordingly.

### **Investigating a complaint**

6. On receipt of the complaint, referred by the Secretary General, the Inquiry Officer will acknowledge receipt to the person who made the complaint.
7. The Inquiry Officer will examine the complaint to establish if it relates to an alleged failure by the Department to comply with Sections 25, 26, 27 and 28 of the Disability Act, 2005.
8. Where the Inquiry Officer considers that the complaint is frivolous or vexatious, he or she will notify the Secretary General and the person who made the complaint to that effect. Otherwise he or she will investigate the complaint.
9. The Inquiry Officer may request further information/details from the person who made the complaint and may require that such information/details be furnished within a specified time.
10. The Inquiry Officer may consult with all parties that he or she considers appropriate regarding the matter.
11. In the course of the investigation the Inquiry Officer may undertake interviews with such persons which he or she considers appropriate, including the person who made the complaint, to elicit information.
12. The Inquiry Officer will maintain a written record of his or her investigation.
13. The Inquiry Officer will prepare a written report of the results of the investigation setting out his or her findings together with a determination in relation to:
  - whether there has been a failure by the Department to comply with the relevant provision of the Disability Act; and
  - if such a determination indicates that there has been such a failure, the steps required to be taken by the Department to comply with the relevant provision(s) of the Act.
14. The Inquiry Officer will furnish a copy of his or her report to the person who made the complaint and to the Secretary General.
15. The furnishing of the report to the person who made the complaint and to the Secretary General concludes the investigation of the complaint.

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<sup>i</sup> Section 39 (2) provides that the head of a public body shall draw up procedures in relation to the making and investigation of complaints and such other matters relating to complaints as he or she considers appropriate and shall cause the procedures to be published.

<sup>ii</sup> The Secretary General, as head of the Department, has, in accordance with the provisions of Section 39 (1) of the Disability Act, 2005, appointed Inquiry Officers to investigate complaints made under Section 38 of the Disability Act. An Inquiry Officer shall be independent in the performance of his or her functions. An investigation by an Inquiry Officer shall be conducted in private.