

Office of the Disability Appeals Officer
Oifig an Oifigigh Achomhairc um Míchumas

Information for Applications

Who is the Disability Appeals Officer?

The Disability Appeals Officer is an independent officer appointed by the Minister for Health. He/she provides an appeals service for persons who wish to appeal:

- Against a finding or recommendation of a Complaints Officer of the Health Service Executive (HSE) made under the Disability Act 2005 (“the 2005 Act”), or
- Against the failure of the HSE or an Educational Service Provider (ESP) to implement a recommendation of a complaints officer.

What can I Appeal?

- Under Section 18 (1) of the Disability Act 2005, you can appeal against a finding or recommendation of an HSE Complaints Officer if you disagree with the finding or recommendation.
- You can also appeal to the Disability Appeals Officer if the HSE or an ESP has not implemented a recommendation made by a HSE Complaints Officer.

How do I Appeal?

- You must make an appeal within six weeks of the date of the finding or recommendation of a HSE Complaints Officer. To ensure that your appeal to the Disability Appeals Officer is made on time we advise that you calculate the six weeks from the sign off date on the Complaints Officer report.
- In some cases, the Disability Appeals Officer can extend this six-week deadline by a period not exceeding a further 12 weeks, if the Disability Appeals Officer is satisfied that you have given a reasonable cause for the extension.
- To make an appeal, fill out the Appeal Form (Form A1). In order for your appeal to be valid it must be made within the six-week timeframe and also specify the grounds of appeal.
- A copy of the Complaints Officer’s report must be included with the appeal form.
- The Appeal Form (Form A1) and copy of the Complaints Officer’s Report can be posted or submitted by e mail to: appeal@odao.ie.

What happens next?

When we, the Disability Appeals Office, receive your completed Appeal Form we will do the following:

- We will send you a letter, usually within 14 days, to say that the appeal is valid or invalid:
 - If it is invalid, we will let you know the reason for its invalidity and what you should do to make a valid appeal
 - If you have submitted a valid appeal you will receive a letter confirming this and be given an Appeal Reference Number which should be quoted on all future communication with the Office.
- We may ask you to give some further information to help us understand, process and decide on your appeal.
- We will ask other parties to the appeal, such as the HSE or ESP to provide us with any representations, information, documentation or evidence that they might wish to provide in response to your appeal.

What is the process after this?

When the DAO has the papers and the information requested from you, the Complaints Officer, the HSE/ESP or any other party, he/she will examine and consider the appeal.

An appeal can be handled in a number of ways. The Disability Appeals Officer may, at any time in the process, consider that the appeal could be resolved by mediation as described below. Alternatively, if he/she is of the view that the appeal cannot be resolved by mediation, he/she shall commence (or re-commence) the 'Investigation', as described later.

Mediation

Mediation means that you, a mediation officer (a neutral person) and officials from the HSE or the ESP, meet. At the meeting, the mediation officer will help you discuss your differences and see if they can be resolved.

You do not have to agree to mediation. It will only be arranged if you do not object. You can also withdraw from mediation at any time. The investigation of the appeal will then continue.

If I do not object to mediation what happens next?

If you do not object to mediation a mediation officer will contact you, generally within 14 days after the referral of the matter to him/her by the Disability Appeals Officer, to arrange the mediation session or sessions. Mediation is conducted in private, and the process and the discussions involved, are confidential.

Mediation will always be held at a venue that is convenient to you and may involve more than one session.

If you reach an agreement, you and the HSE/ESP will sign a resolution document. The terms of a signed resolution document are legally binding on you, the HSE and any ESP concerned. This means that you accept the contents of the document, and the HSE or the ESP must do what the resolution document says. You will be given a copy of the signed document.

What happens if we do not reach a resolution at mediation?

If you do not reach an agreement, or if you have objected to, or withdrawn from, mediation, the appeal will then go through the 'Investigation' process described below. The mediation officer will not be involved in the investigation and will not discuss with the Disability Appeals Officer any issues that arose at any mediation.

Investigation

In an 'Investigation', the Disability Appeals Officer reviews all the information, documentation and evidence in an appeal if mediation does not take place or is not successful.

During the investigation, the Disability Appeals Officer may request further information and/or documentation and/or evidence from the parties. The Disability Appeals Officer may also decide that an oral hearing is required. Oral hearings are described further below.

At the end of the investigation the Disability Appeals Officer will issue a written determination. If an oral hearing is not required, this written determination will generally issue within 56 days of the decision not to enter mediation or from the date that the Disability Appeals Officer is told that mediation was unsuccessful.

Oral Hearing

The 2005 Act provides for the holding of oral hearings in appropriate cases. The Disability Appeals Officer decides if it is appropriate to hold an oral hearing; for example, if there is a conflict between the information and evidence given.

The Disability Appeals Officer will make sure that all of the people concerned know about the hearing and will confirm that they can attend. Further details and information is provided if it is decided to hold such a hearing.

The Disability Appeals Officer needs to take time to consider all the other information, evidence and documentation he/she has gathered and in the event that an oral hearing took place what he/she has heard at the hearing. He/She then issues a reasoned, written determination at a later date.

What happens if the determination of the Disability Appeals Officer is not implemented?

If the HSE or the ESP concerned fails to implement a determination by the Disability Appeals Officer within three months from the date on which the determination of the Disability Appeals Officer was communicated to you; or within three months of the date specified in the determination for the provision of a service you or your representative or the Disability Appeals Officer may apply to the Circuit Court for an enforcement order.

Such an application must be made on notice to the HSE and any ESP concerned.

What can I do if I disagree with the determination of the Disability Appeals Officer?

You can appeal the determination of the Disability Appeals Officer to the High Court within 21 days of the giving of notice of the determination to you by the Disability Appeals Officer. This period can be extended by the Court, if it is satisfied that there is good and sufficient reason for extending that period and that the extension of the period would not result in an injustice being done to any other person concerned in the matter.

You can appeal against the Disability Appeals Officer's determination on a point of law only.

Contact ODAO:

E-mail: appeal@odao.ie

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This leaflet is intended as a guide only.

It is not a legal interpretation and ought not to be relied upon as such