Health Information and Quality Authority

An tÚdarás Um Fhaisnéis agus Cáilíocht Sláinte

Regulation and Monitoring of Social Care Services

Making a Submission on a Stage-2 Inspection Report to the Chief Inspector of Social Services

V2: effective from 21 August 2023

Safer Better Care

1. Procedure

This standard operating procedure (the "procedure") outlines the process for a making a formal submission to the Office of the Chief Inspector of Social Services (the "Chief Inspector") on a regulatory judgment in a stage-2 inspection report.

2. Scope

This procedure applies to **stage-2 inspection reports**[1] which contain regulatory judgments of non-compliance (either substantially compliant or not compliant).

The following areas are outside the scope of this Procedure:

1. Matters which do not relate to regulatory judgments in the stage-2 inspection report;
2. Matters dealt with under other processes; and
3. Submissions made where the feedback[2] or submission process has not been followed.

A non-exhaustive list of examples, which are out of the scope of this Procedure, is set out in Appendix 1. This non-exhaustive list is intended to guide providers on matters which will render a submission out of scope.

The making of a submission does not interfere with the Chief Inspector's function to register and inspect designated centres to assess whether the registered provider is in compliance with regulations or standards.

3. How to make a submission on a regulatory judgment or judgments in a stage 2 inspection report — procedure steps

Once the provider has completed the feedback process and has been issued with the stage-2 inspection report, the provider has **10 working days** to make a submission using the submission form available on HIQA's website.

[1] A stage-2 report is issued to a provider following the receipt of feedback on a stage-1 report. Details and information on the stages of an inspection report, including the feedback process and compliance plan response can be found in the *Regulation handbook* on www.hiqa.ie.
[2] Any regulation where feedback was not submitted following a stage 1-report is out of scope for a submission.

The making of a submission does not remove the requirement for the provider to return a compliance plan response where non-compliances have been identified within 15 working days of receipt of a stage-1 inspection report.

A submission may be made by the provider in the following circumstances:

- Where the provider has fully engaged in good faith with the feedback process and believes that the regulatory judgment or judgments[3] contained in the stage-2 inspection report are disproportionate to the evidence provided to, reviewed and observed by the inspector on the inspection and through the feedback process.

3.1 Registered provider submission

Submission form

The submission should be made by completing the submission form available on HIQA's website and sending it by email to the Chief Inspector at chiefinspector@hiqa.ie.

Review of regulatory judgments

The provider must outline the particular regulatory judgment or judgments contained in the stage-2 inspection report that it wishes to have reviewed. Providers may submit evidence, documentation or descriptors of circumstances that support its submission.

Valid submission

A submission will be considered to be valid once it has been fully completed on the prescribed form as set out above and contains no areas that are out of scope (see section 2 of this procedure) or unnecessary personal data.

[3] Judgments descriptors include — "compliant", "substantially compliant" or "not compliant" and the associated risk rating. A submission on regulatory judgments does not include feedback on the body of the report or factual accuracies. These matters should be dealt with during the stage-1 inspection report feedback process.

Out of Scope Submissions and Submissions containing personal data

The Chief Inspector or delegate will not accept submissions and associated documents from providers which:

(i) Contain elements which are out of scope[4]; or
(ii) Contain unnecessary sensitive personal data or personal data which is unrelated to the functions of the Chief Inspector.[5]

If either (i) elements which are out of scope or (ii) unnecessary sensitive personal data or personal data which is unrelated to the functions of the Chief Inspector are included in the submission and or any supporting documentation, the entirety of the submission will be deemed to be invalid and the Chief Inspector will not review the submission or retain a copy of the submission or supporting documentation.

The provider will be allowed to make a valid submission without (i) elements which are out of scope or (ii) unnecessary sensitive personal data within **five working days** of being issued a notice of the non-acceptance of its previous submission. If no valid submission is received after five working days, the inspection report will be progressed to a final stage-3 inspection report. If a valid submission is received within five working days, the timelines in this procedure for a decision on that valid submission will apply from the time of receipt of the valid submission.

3.2 Management of the submission

Once a valid submission is received, the stage-2 inspection report will not be progressed to the final stage (that is, stage-3) until the requirements under this Procedure have been completed. Following the initial review of the submission, the Chief Inspector has the discretion to deal with the stage-2 report as deemed appropriate and in the following manner:

1. Refer the stage-2 report back to stage-1 to be revised and re-issued. If this is done, the process for the provider to give feedback on a stage-1 report will commence again.

[4] See section 2 above.
[5] Personal data means personal data as defined in article 4(1) of the General Data Protection Regulation – personal data means any information relating to an identified or identifiable natural person (data subject); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier, or to one or more factors specific to the physical psychological genetic, mental economic cultural or social identity of that natural person.

2. Extend the feedback process on the report. Please refer to section 3.3 for further information on the "Referral to Feedback Process".

3. Refer the submission for review by a submission panel or a senior manager for their review and recommendation. Please refer to section 3.4 for further information on "Recommendation on Submissions".

    a. If there are substantive changes made to the stage-2 report, the Chief Inspector may direct that the amended[6] stage-2 report be issued to the provider and the provider be allowed to make further submissions about those substantive changes and within the timelines set out in the Chief Inspector's decision.

    b. Alternatively, the Chief Inspector may direct that the stage-2 report (whether amended or not) is finalised to a stage-3 report and issued to the provider.

An acknowledgement letter will be issued to the provider within **10 working days** of receipt by the Chief Inspector of a valid submission. This letter will detail the Chief Inspector's decision as to how the Chief Inspector will deal with the submission.

3.3 Referral to the feedback process

As referenced in section 3.2 of this procedure, the Chief Inspector may decide to refer a submission back to the feedback process. Inspectors will follow the feedback process, which will include:

- a further review of the provider's completed feedback form;
- a review of any additional feedback received through the submission; and/or
- direct engagement with the provider.

Where the stage-2 inspection report is referred back to the feedback process, the inspector or inspectors will conclude the feedback process within 10 working days of the referral and re-issue a stage-2 inspection report to the provider. The provider will then have **five working days** to make a further submission using the submission form. In doing so, the provider must comply with this procedure in making a submission to the Chief Inspector.

[6] The stage-2 report will only be amended if the Chief Inspector directs that amendments be made.

3.4 Recommendation on Submissions

Where the Chief Inspector had decided to refer the submission for a review by a submission panel or a senior manager for their review and recommendation, the Chief Inspector will:

a) assign the submission to a senior manager to consider and make a recommendation; or

b) convene a submission panel and appoint a chairperson and other member(s) of the panel to consider and make a recommendation.

If a panel is convened, it will consist of not less than two members, one of whom will be a senior manager.

Neither the sole senior manager identified in (a) above nor the panel members in (b) above will have direct involvement regarding the inspection of the designated centre, the stage-2 inspection report and the submission under review.

The senior manager or panel will review the submission with the inspector and his or her regional manager in attendance. The senior manager or panel will only consider information and documentation relevant to the submission. This may include (but is not limited to):

- stage-1 and stage-2 inspection reports
- inspection notebooks
- provider's submission and accompanying documentation relevant to the judgments made during the inspection, submitted by the provider
- other information submitted to the Chief Inspector for registration and assessing compliance with the regulations and standards relevant to the submission.

The senior manager or panel chairperson shall prepare a "Submission Recommendation Report" (the "recommendation report") outlining the recommendations and rationale. The Recommendation Report may include recommendations relating to the regulatory judgments made in the stage-2 inspection report and also recommendations to amend, for clarity, the wording in the stage-2 inspection report. The Recommendation Report and all relevant information regarding the submission will be made available to the Chief Inspector to aid the Chief Inspector in deciding on the provider's submission.

3.5 Decision of the Chief Inspector on the Submission

The Chief Inspector will review the Recommendation Report and all information relevant to the submission to inform a decision on the regulatory judgments under review.

If the Chief Inspector makes substantive changes[7] to the stage-2 report, the Chief Inspector may direct that the amended stage-2 report be issued to the provider and the provider be allowed to make further submissions about those substantive changes and within the timelines set out in the Chief Inspector's decision. Where substantive changes are not made to the stage-2 report, the Chief Inspector may direct that the stage-2 report (whether amended or not) is finalised to a stage-3 report and issued to the provider as set out below.

The Chief Inspector will set out in writing to the provider the decision (letter of decision) on whether the regulatory judgment has been upheld (no change to the regulatory judgment) or not upheld (the regulatory judgment is changed) and the reason for the decision. The letter of decision will be issued to the provider within **35 working days** of receipt of the valid submission. After the letter of decision has been issued by the Chief Inspector, the stage-3 inspection report is finalised to include any changes to be made, will be issued to the provider and will proceed for a decision on publication. At this stage, the provider cannot give any further feedback on the inspection report as the decision of the Chief Inspector is final.

This Procedure includes timelines within which the Chief Inspector wishes to respond to the submission. In some circumstances, more time is required to carry out the review. In these circumstances, the provider will be advised within 20 working days of receipt of the valid submission of the delay and the timeline within which the final decision on the submission will be made by the Chief Inspector.

[7] Substantive changes may include, for example, a decision by the Chief Inspector to change a regulatory judgment/s in the stage-2 report; for example, changing the regulatory judgment from "Substantially Compliant" to "Not Compliant" or where significant changes have been made to the narrative in the report. The Chief Inspector's decision in this regard is discretionary.

4. Revision history

Revision	Description of change	Effective
001	Reference to Director of Regulation removed Definition of valid submission inserted Process if personal data is submitted, inserted Amendment made to the submission New document	31 May 2019
002	Providing further clarity as to in scope and out of scope submissions Revised layout of document for ease of reading Providing further clarity as to options available to Chief Inspector	21 August 2023

Appendix 1

Examples of out of scope items

The following is a non-exhaustive list of examples which will be considered out of scope of this Procedure.

Matters which do not relate to regulatory judgments in the stage-2 inspection report:

- any commentary in relation to section 2 or Parts 7 to 10 of the Health Act 2007 (as amended)
- any commentary not related to the regulatory judgments contained within the stage-2 inspection report
- any stage-3 inspection report
- reference to any other designated centre, any other registered provider or to any third party adviser or consultant or to advice provided by such adviser or consultant.

Submissions made where the feedback and submission process has not been followed:

- any submission made without completing the compliance plan and or feedback form as referred to in section 3 of this procedure
- any submission on a judgment not included as part of the feedback process.

Matters dealt with under other processes:

- any matter which is the subject of an independent inquiry or legal proceedings
- any matter relating to a third party who believes they are adversely mentioned in an inspection report; for example, a visiting health professional[8]
- any matter relating to the conduct of inspectors of social services ("inspectors")[9]
- any matter previously dealt with under the HIQA Complaints Policy.
- any written representations made by a provider to a notice of proposed decision of the Chief Inspector under the Health Act 2007 (as amended)
- any submission from a provider's representative body on an issue of general concern.

[8] Any person who believes himself or herself affected in this way should raise the matter directly with the inspector who is responsible for compiling the report.

[9] These matters will be dealt with under the HIQA Complaints Policy.

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