



St. Helens Council

Adult Social Care & Health

Complaint Policy and Procedures

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St. Helens Council

Adult Social Care and Health **Complaints Policy and Procedures**

Policy Statement

The Adult Social Care and Health Department of St. Helens Council seeks to resolve all complaints about its services in an effective and timely manner by working with individual complainants to find a resolution.

When people have complaints we will listen to them, and wherever possible, will negotiate and agree a course of action to resolve the complaint. We will deal with complaints in a fair and transparent way, treating those who make them with courtesy and respect.

To ensure equality of access to the complaints procedures the provision of advocacy and/or interpretative support will be provided for complainants in line with their individual requirements.

The Adult Social Care and Health Department recognise that compliments, comments, concerns and complaints provide valuable feedback about people's experiences, which can be used to inform, develop and shape our services.

The Adult Social Care and Health Department will produce internal procedures and guidance to ensure compliance with the statutory obligations set out within **The Local Authority Social Services and National Health Services Complaints (England) Regulations 2009**.

The Adult Social Care and Health Department will provide public information relating to its process for dealing with complaints.

Procedures for Dealing with Complaints

1. Introduction

- 1.1 All local authorities with social services responsibilities require arrangements for dealing with complaints. The arrangements must comply with the statutory requirements as detailed in the **Local Authority Social Services and National Health Complaints (England) Regulations 2009**. The information set out in these procedures, along with appendices and associated guidance, identifies those arrangements and gives details of how complaints will be handled.
- 1.2 The new legislation governing adult complaints in both health and social care came into effect from 1st April 2009 and is a significant departure from the previous three-stage approach under the 2006 Regulations. The 'Making Experiences Count' guidelines set out the following goals for a reformed complaints approach across health and adult social care:
- ❖ To take a more flexible approach towards handling individual complaints, which focuses on the needs and wishes of the people involved.
 - ❖ To simplify things so that it is much easier for people to share their experiences and for organisations to respond.
 - ❖ To make sure that people's experiences help to improve services.

See appendix 1 (Background Information)

2. Aims of the Complaints Procedure

- 2.1 The Adult Social Care and Health complaints procedure has twin aims, based on the Department of Health's 'Making Experiences Count' guidelines, the above Regulations and the Personalisation approach to the provision of services.
- 2.2 These aims are:

To resolve complaints more effectively by responding personally, positively and promptly.

This is about putting the individual (and/or their representative) at the centre of efforts to resolve the issues they have raised.

To ensure that services actively use complaints as an opportunity to improve service performance and quality.

This is about learning from people's experiences to look critically at service provision and plan for future improvement.

3. What is a Complaint?

- 3.1 ***A complaint is any expression of dissatisfaction about a service that is being delivered, or the failure to deliver a service, or the behaviour of a staff member.***
- 3.2 It must be remembered that not all individuals would wish to make formal complaints, but do have things to say that require action to be taken. These issues should still be addressed and recorded within service areas.
- 3.3 A complaint/concern/comment can be made in person, in writing, by telephone or email or through the council's website. Every effort should be made to assist an individual in making their views known and any staff member should be available to accept the initial representation.

A complaint can be made by contacting the St. Helens Council Contact centre on **01744 456789**, contactcente@sthelens.gov.uk or directly to the Complaints Team on **01744 674363**, vincentmcgrail@sthelens.gov.uk

- 3.4 We need to understand that some people may find it difficult to complain, they may be anxious, or have difficulty speaking and communicating.

4. Who can Complain?

- 4.1 A complaint can be made by:
- ☐ An individual service user.
 - ☐ The representative of a service user (this can be anyone acting on their behalf with their consent).
 - ☐ The representative of a service user who has not got capacity as long as they are seen to be acting in the interests of that service user.
 - ☐ A relative of a service user who is deceased.
 - ☐ Someone who has been turned down for a service to which they think they are eligible.

- 4.2 A complaint can only be made by/on behalf of someone to whom the local authority may have the duty or power to provide a service.

5. What can be complained about?

- 5.1 A complaint can be made about anything that is connected with the local authority exercising its social service function. This could be:

- ❑ Quality or amount of service.
- ❑ Charges for services.
- ❑ Failure to follow correct procedures.
- ❑ Delay in service provision.
- ❑ A service not being provided.
- ❑ Application of eligibility criteria.
- ❑ Assessments, review, care plan outcomes.
- ❑ Attitude or behaviour of staff.
- ❑ The impact for an individual of the application of a local authority policy.

- 5.2 Certain issues raised that should be dealt with by other procedures will not be investigated as a complaint under these procedures e.g.

- ❑ Disciplinary or grievance proceedings.
- ❑ Criminal investigations.
- ❑ Where a statutory appeals process is in place.
- ❑ The complainant intends to take legal proceedings in relation to the substance of the complaint.
- ❑ Children & Young People's social care complaints.
- ❑ Corporate complaints, i.e. a complaint from an Independent provider regarding communication with the Department.
- ❑ Complaints arising out of an alleged failure to comply with a data subject request under the Data Protection Act 1998.
- ❑ Complaints arising out of an alleged failure to comply with a request for information under the Freedom of Information Act 2000.

N.B. This is not an exhaustive list

6. Responding to Complaints

- 6.1 The Adult Social Care and Health Department recognises that most of our work is involved with supporting people to overcome and manage difficulties or situations in their lives. Staff may therefore, hear about things that are not going as well as our customers would like.

- 6.2 The aim is to consider all complaints as close to the point of contact as possible, and in many cases staff will be able to respond and resolve these at the time and place that the complaint is made.
- 6.3 Staff, in all service areas, should take the following steps when receiving a complaint directly:
- ❖ Confirm the details of the complainant, the actual complaint and the desired outcome.
- 6.4 Then consider whether the issues can be resolved locally and promptly in discussion with Team Manager, who will be responsible for handling the complaint.
- 6.5 The **Regulations** on complaints identify *'if a complaint is made orally and resolution can be agreed with the client by the end of the next working day'* it does not fall within the regulations and therefore it can be viewed as **day-to-day business**. Adult Social Care and Health, however, considers that such representations should be included within recording for a service area. Details of such representations managed within service areas should be forwarded to the Complaints Team, this information will assist in the overall departmental learning from complaints.
- 6.6 However, if a complaint cannot be resolved by the end of the next working day, or the complainant remains dissatisfied with the immediate response, the complaint must be brought directly to the attention of the Complaints Team. The representation will then be handled in line with the **Regulation** requirements and classified as a **complaint**.

See appendix 2 (Complaint Handling Flowchart)

See appendix 3 (Complaints Guidance for Staff)

7. Acknowledging Complaints

- 7.1 The Complaints Team will provide all complainants with an acknowledgement of their complaint. This will ensure consistent and accurate information is provided to complainants about what will happen next.
- 7.2 When the Complaints Team acknowledge complaints it will:
- ❖ Identify a named complaints officer.
 - ❖ Provide an opportunity to meet with the complainant to discuss the complaints process.
 - ❖ Ask complainants to start considering what outcomes they are seeking from their complaint and how they would like to resolve it.

- ❖ Send out a copy of the complaints leaflet.

- 7.3 The Complaints Team will acknowledge the complaint within **3 working days** and make arrangements to meet the complainant on an individual basis to complete an **Individual Complaint Action Plan** and screen the complaint.

8. Individual Complaint Action Plan (ICAP)

- 8.1 The purpose of this action plan is to clearly identify the complaint issues, realistic outcomes for resolution, who will investigate the complaint, the timescale(s) for doing so and the form of response. The development of this agreed plan provides a focus for responding and gives the complainant more confidence that their concerns are being dealt with appropriately.
- 8.2 The plan needs to be proportionate, achievable and take into account:
- ❑ The complainant's view of the issues
 - ❑ Any support needs the complainant may have
 - ❑ What has been agreed to resolve the complaint
 - ❑ A timescale for doing so
 - ❑ How and when the complainant will be updated regarding progress in the handling of the complaint

See appendix 4 (Individual Complaint Action Plan)

9. The Complaint Screening Tool

- 9.1 The details of the complaint will also require to be screened to look at the significance of the complaint for the complainant and for the Department and so indicate the manner in which it should be dealt with. Factors to be taken into account when screening are:
- ❑ The likelihood of re-occurrence.
 - ❑ The degree of risk for the individual.
 - ❑ The degree of risk for the Department.
 - ❑ The views of the complainant.
- 9.2 This approach provides three alternative ways of dealing with the complaint, starting at **LOW** impact issues, to **MODERATE** and potentially **HIGH** impact. These will be dealt with progressively in ways that are increasingly formal and independent.

9.3 **LOW IMPACT**

The Team Manager for the responsible service area will deal with these complaints. This will take the form of an investigation into the complaint and take place in line with the **Individual Complaint Action Plan** as agreed by the Complaints Team and the complainant. The outcome will be to have a written report with decisions made about:

- ❑ Whether the complaint is upheld or not.
- ❑ What actions need to be taken.
- ❑ Any learning for service improvements.

9.4 The aim should be to conclude the complaint within **10** working days of this agreement. On conclusion of enquiries, a letter is sent to the complainant outlining actions taken or planned to address issues raised and an apology if appropriate.

Complaint to be signed off by Service Manager and the Complaints Team provided with details of the outcomes.

Failures to respond to timescales agreed within the ICAP will be reported to the Senior Management Team.

9.5 **MODERATE IMPACT**

The Service Manager for the service area responsible will deal with these complaints. This will take the form of an investigation into the complaint and take place in line with the **Individual Complaint Action Plan** as agreed by the Complaints Team and the complainant. The outcome will be to have a written report with decisions made about:

- ❑ Whether the complaint is upheld or not.
- ❑ What actions need to be taken.
- ❑ Any learning for service improvements.

9.6 The Assistant Director for the service area will sign off the complaint and the Complaints Team provided with details of the outcomes.

9.7 The response to the complainant will be sent out in the form of a report that addresses the substance of the complaint and a covering letter outlining what actions will be taken. The aim is to conclude the complaint within **30** working days.

Failures to respond to timescales agreed within the ICAP will be reported to the Senior Management Team.

9.8 **HIGH IMPACT**

The Assistant Director for the service area is responsible and will deal with these complaints. These are the most complex and

require a greater degree of formality and independence to address and resolve.

- 9.9 The Complaints Team will complete the **Individual Complaints Action Plan** with the complainant and appoint an investigating officer. This person will be independent of the service concerned and may be independent of the local authority. The outcome will be to have a written report with decisions made about:

- Whether the complaint is upheld or not.
- What actions need to be taken.
- Any learning for service improvements.

The Director will sign off the complaint and the Complaints Team will receive a copy of the Report.

- 9.10 The complainant will receive a copy of the Investigating Officers report along with a covering response letter outlining what actions will be taken. It is also important to include advice about what to do if the complainant is dissatisfied with the response or the way in which their concern has been dealt with.

The aim is to conclude the complaint within **40** working days.

See appendix 5 (Complaint Screening)

See appendix 6 (Guidance for Investigating Officers)

Failures to respond to timescales agreed within the ICAP will be reported to the Senior Management Team.

10. Sign Off / Responding to Complainants

- 10.1 This relates to Adjudicating Officers (Senior Managers) who are asked by the Complaints Manager to sign off complaints on behalf of the Chief Executive, who is the Responsible Person according to the 2009 Regulations.

- 10.2 If you have been asked to **sign off** a complaint:
Before signing off:

- Make sure that the complaint is resolved OR be certain that everything possible has been done to resolve the complaint. Once a complaint is signed off, we would normally expect the complainant's only recourse to be to the **Local Government Ombudsman (LGO)**.
- Make sure that the person identified to deal with the complaint has followed the agreed **Individual Complaints Action Plan** and completed the necessary reports. These will provide the basis of your response and will be also sent to the complainant. If there is missing information then take

this up with the Complaints Manager. This is important as such information will assist with an audit trail if the complainant contacts the **LGO**.

- If you think there is more that the council can do to **resolve** the complaint, or if you feel the complaint has been unfairly treated then advise what further action you would like to be taken to resolve the complaint.
- Consider whether **meeting** with the complainant, and the Complaints Manager, to discuss the outcome of the complaint might be productive. There would still need to be a sign-off letter.
- If communication with the complainant has been regular and effective, there should be no surprises to the complainant in the sign off letter.
- If you think there are **deficiencies** in the report, the process followed, communication with the complainant or the outcome then discuss them with the Complaints Manager and the person identified to look into the complaint. Your input will be useful to them when dealing with complaints in future.
- Make sure that any discretion, which the council has in the areas complained about, has been applied fairly.

10.3 In your **sign-off letter**:

- Make sure you explain things in a way the complainant will understand.
- Make sure any legislation quoted or relied upon is correctly interpreted and clearly referenced and information about where it can be found included in the letter.
- Take account of and acknowledge the complainant's feelings, regardless of whether the complaint is upheld or not. Consider whether we can help or signpost them to other services, which might help them deal with things that have gone wrong.
- Thank the complainant for making the time and effort to bring the complaint to our attention.
- Make sure each of the listed complaints is addressed within your letter. Clearly state which have been / not been upheld.
- Consider what remedy is appropriate for any complaints that have been upheld (including financial remedy).

- Enclose a copy of the report (or the investigating officers report if an external investigation has been commissioned).
- Confirm the local authority is satisfied with the way that the complaint has been addressed and the action taken.
- Summarise what conclusions have been reached on the basis of facts.
- If there has been learning for the Department or if you intend to take action in future as a consequence of the complaint explain what, how & when.
- Advise the complainant of their right to go to the **Local Government Ombudsman**.

Please feel free to seek advice from the Complaints Team at any time during the process.

11. Dissatisfaction with the Departments response

- 11.1 If the complainant is dissatisfied with the response to their complaint then the Complaints Team and the Complaints Manager will consider:
- ❖ The reasons for dissatisfaction.
 - ❖ Whether this is a new complaint.
 - ❖ Whether there is any new information.
- 11.2 If it is felt that after this consideration there are grounds to revisit some, or all elements, of the complaint then this will be agreed with the complainant.
- 11.3 If the complainant is dissatisfied but there are no grounds to revisit some, or all elements, of the complaint, they will be advised of the next stage of the process. This is a referral to the **Local Government Ombudsman (LGO)** to review the way the complaint has been handled. The **LGO** is responsible for making sure that councils deliver their services properly, fairly and within the law.

12. Complaint Timescales

- 12.1 The **Regulations** state that every complaint should be acknowledged no later than **three working days** after the complaint was received and all complaints, regardless of how complex, should be concluded within **six months** of receipt. The Complaints Team will acknowledge all complaints and through agreed **Individual Complaint Action Plans** will monitor the handling of complaints in line with internal timescales of 10, 30 and 40 days linked to the screening outcomes.

- 12.2 The reasoning for this approach is to achieve a timely and proportionate response for complainants. Dealing with complaints quickly and efficiently shows that we take complaints seriously, and are interested in resolving them. It demonstrates that we care about the fact that somebody has had a negative experience. Delay can give the impression of disinterest and disrespect.

13. Learning from Complaints

- 13.1 The new **Regulations** emphasis the importance of learning from complaints and actively using this information to improve service provision.
- 13.2 'Making Experiences Count' highlights the role complaints have in assisting organisations to identify:
- ❖ Potential service problems.
 - ❖ Risks (and prevent them from getting worse).
 - ❖ Opportunities for staff improvement.
 - ❖ Information for the reviewing of services and procedures.
- 13.3 Adult Social Care and Health consider that complaints provide a vital source of insight about people's experiences of service provision and are therefore a valuable tool to continually improve the quality of services.
- 13.4 All complaint representations received by Adult Social Care and Health must be recorded and the outcomes reported to the Complaints Team. For **Day-to-Day resolution** copies of the outcome should be sent to the Complaints Team upon resolution. This approach will supplement the more in depth recording of complaints handled under the 2009 Regulations and allow for Department learning around the nature and range of complaints made in service areas.
- 13.5 A detailed record of all complaints, handled inline with these procedures will be maintained by the Complaints Team in order to monitor that actions taken are in line with these procedures and within Department timescales.
- 13.6 Each resolved complaint should identify the issues raised and if actions are required to resolve the complaint. Such actions should be identified within an action plan, the implementation of which can then be monitored by the Complaints Team.

- 13.7 The Complaints Team will also analyse the range of complaint information received to highlight any common themes or cross service issues. This will allow for an overview of complaint issues and will be reported to the Senior Management Team for their consideration on a quarterly and annual basis.
- 13.8 The Complaints Team will send out a customer feedback questionnaire to complainants following the resolution of a complaint. This will provide an opportunity for complainants to comment on the complaints process and the manner in which their complaint was handled. This is to ensure continuous improvement in complaints handling and also evidence learning from people's experience.

14. Safeguarding

- 14.1 Complaints that have any element of adult abuse or suspected abuse should be immediately referred through the Department's Safeguarding Procedures. Any complaints investigation must be put on hold until discussions have taken place between the Adults Safeguarding Manager and the Complaints Manager to decide the most appropriate course of action.

See appendix 7 (Safeguarding and Complaints Protocol)

15. Direct Payments

- 15.1 Direct Payments and Individual Budgets are not explicitly part of the reformed arrangements, although complaints to a local authority are covered when they are about the process of allocating a Direct Payment or Individual Budget; about services that are provided directly by the local authority; or when the local authority manages the budget on behalf of the service user. The point of the exclusion is that the authority hands over the money to the service user, and so decisions made by the service user are outside the procedure.

16. Anonymous and Withdrawn Complaints

- 16.1 Anonymous complaints fall outside the scope of these procedures, however, every effort will be made to gather as much detail as the individual is prepared to give to ensure that it is possible to investigate the issues identified.
- 16.2 Complainants may wish to withdraw their complaint and in such circumstances a letter will be sent to the complainant seeking confirmation of this. However, there may be some instances where the investigation is continued internally to inform the service improvement process.

17. Deferring (Freezing) Decisions And Resolutions

- 17.1 If the complaint is about a proposed change to a care plan, placement or service, the decision may need to be deferred until the complaint is resolved.
- 17.2 The decision to freeze will normally be made through detailed discussion and risk assessment between the complaints staff and the responsible service manager. Where an agreement cannot be reached, the case will be referred to the Assistant Director.
- 17.3 Decisions to freeze can only be made on a case-by-case basis, but there should be a presumption in favour of freezing, unless there is a good reason against it (for example, if leaving a service user where they are would put them at risk).

18. Resolution

- 18.1 At any point whilst a complaint is active the Department should consider ways of resolving it.
- 18.2 There are a number of methods of resolution that can be applied without full investigation:
 - ❑ Provision of an apology or explanation.
 - ❑ Conciliation and mediation.
 - ❑ A reassessment of the complainant's needs.
 - ❑ Practical action specific to the complainant.
 - ❑ A review of practice/policy.
 - ❑ The assurance that the Department will monitor the effectiveness of its remedy.

19. Financial Redress

- 19.1 In some cases financial redress may be appropriate for the following reasons:
 - ❑ Compensation.
 - ❑ Quantifiable loss.
 - ❑ Loss of a non-monetary benefit.
 - ❑ Loss of value.
 - ❑ Lost Opportunity.
 - ❑ Distress.
 - ❑ Time and Trouble.
- 19.2 Consideration should also be given to the need to pay for loss of interest. Levels of financial redress are made at the Director's discretion.

20. Staff Rights, Grievances and Discipline

- 20.1 The Department of Health Policy Guidance states that the complaints procedures should be kept clearly separate from the grievance and disciplinary procedures. Grievance procedures concern staff issues, i.e. conditions of service, management and support.
- 20.2 Disciplinary Procedures apply to the actions of staff in relation to alleged failures to comply with codes of conduct, job descriptions, practice instructions or other relevant professional or administrative guidance.
- 20.3 Staff are not personally liable for carrying out resource decisions or allocations of service, according to the Departmental Criteria.
- 20.4 The rights of service users are the Department's first priority, but staff rights also have to be protected.
- 20.5 The Department acknowledges the stress that the complaints process can cause for staff. It is therefore the responsibility of line managers to ensure that staff are properly supported, and a named individual manager will be allocated this responsibility when requested.
- 20.6 During the investigation of a complaint, staff have the following rights:
 - ❑ The staff member(s) mentioned or criticised in a complaint will be informed through line management, before their involvement in the investigation.
 - ❑ The staff member(s) will generally be informed of the name of the complainant, the nature of the complaint and the name of the Investigating Officer. Wherever possible appropriate staff will be allowed to see the recording of the registered complaint.
 - ❑ Staff will generally have access to any Departmental recording relevant to their involvement in the complaint.
 - ❑ Staff have the right to be accompanied by a representative of their trade union or professional association, a friend or colleague (not mentioned in the complaint) during the interview(s) with the investigating Officer.
 - ❑ The Investigating Officer will give staff at least two working days notice of an interview.

- 20.7 The investigation report, together with the Department's response, should be made available by the Assistant Director to the appropriate line manager(s), who should share this with those staff who have been involved in the investigation, paying due regard to confidentiality requirements.
- 20.8 No record of complaints will be filed on personnel files. If disciplinary procedures became invoked then files will be compiled accordingly.

21. Time Limit for Making Complaints

- 21.1 There is a time limit for making complaints under the **2009 Regulations**. We will not normally consider complaints made more than **12 months** from the date on which a matter occurred, or the matter came to the notice of the complainant. Where complaints are judged as being out of time, the Complaints Manager will write to the complainant explaining the reasons for the decision. The complainant will be advised of their right to approach the **Local Government Ombudsman**.
- 21.2 This time limit can be extended at the Department's discretion, if it is still possible to investigate the representation effectively and fairly. The Department would also consider the complaint if it would be unreasonable to expect the complainant to have made the complaint earlier.

22. Joint Organisation Complaints

- 22.1 Dealing with a wide range of health, social and independent organisations can be confusing for people. If something goes wrong it is important that the organisations involved provide a unified, responsive and effective service for complainants. This means that an individual should only need to contact one organisation to identify a complaint and not have to approach a variety of organisations about a range of issues.

See appendix 8 (Joint Organisation Complaints)

- 22.2 A **Protocol** for handling complaints provides a framework for collaboration in handling complaints, to ensure:
- ❖ A single consistent and agreed contact point for complainants to avoid confusion.
 - ❖ Clarity about the responsibilities of each organisation.
 - ❖ Regular and effective liaison and communication between the coordinating complaints teams and complainants

- ❖ Learning points arising from complaints covering more than one organisation are identified and addressed by each organisation
- 22.3 When deciding who should be the **Lead Organisation** in managing a complaint, the following factors should be taken into account:
- ❖ Which organisation manages integrated services
 - ❖ Which organisation has the most serious complaints about it
 - ❖ Whether a larger number of issues in the complaint relate to one organisation compared with the other organisation(s)
 - ❖ Which organisation originally received the complaint (if the seriousness and number of complaints are about the same for each one)
 - ❖ Whether the complainant has a clear preference for which organisation takes the lead
- 22.4 Complaints about services registered under section 11 of the Care Standards Act 2000, are classified as '**Care Standard Complaints**' and are distinct from these procedures and should be investigated by the actual service provider.
- 22.5 From 1/4/2010, this area is covered by Part 1 of the Health and Social Care Act 2008 and is classified as a '**Social Care Provider Complaint**' and again should be investigated by the actual service provider.
- 22.6 The Intelligence and Outcomes Unit (IOU) will monitor such complaints as **Expressions of Concern**.
- 22.7 However, if the complaint also involves issues for the local authority to consider then the complainant must receive a co-ordinated response from both organisations. The Complaints Team and the Department's Intelligence and Outcomes Unit will liaise with the **Care Quality Commission (CQC)** to ensure clarity in this area.
- 22.8 In respect of those services purchased/commissioned by Adult Social Care and Health that are not subject to these Acts, then the Department's Intelligence and Outcomes Unit will have a major role to play. It will ensure that
- ❖ Each contracted agency has its own service specific complaints procedure
 - ❖ Agrees to proactively participate in investigations of complaints undertaken in accordance with these procedures
 - ❖ Responds to recommendations of complaints investigations.

- 22.9 If the complainant does not wish the purchased/commissioned service to investigate the complaint using its own procedures, then it should be dealt with under the Department's procedures.

23. Persistent Complainants

- 23.1 Occasionally complainants may become unreasonably persistent, over demanding of time or vexatious in the raising of complaints. Every effort must be made to address any concerns identified and if it is a new complaint it should be dealt with under these procedures. However, if the complaint has already been dealt with, it cannot be handled through these procedures.
- 23.2 If the complainant is abusive or threatening to the Complaints Team, then steps should be taken to restrict face-to-face contact and in extreme circumstances risk assessments may be conducted and the police involved.

24. Mediation

- 24.1 For some representations it will not be appropriate, or possible, to resolve them through the process of enquiry and response. Particularly where there has been a breakdown in the relationship between the service and the service user or where emotions are running high. In these circumstances mediation is an option that should be considered.
- 24.2 The Complaints Team will make the necessary arrangements after gaining the agreement of both parties. Mediation is not possible without such agreement and it must be reflected in the ICAP.
- 24.3 Mediation by an independent mediator will allow both sides to:
- ❖ Express their own views.
 - ❖ Think about how to put things right.
 - ❖ Come together to reach a solution.

25. Complaints Reports

- 25.1 The **Regulations** place a duty upon health and social care organisations to produce an annual report detailing:
- ❖ The number of complaints they receive.
 - ❖ The issues that these complaints raise.
 - ❖ Whether complaints have been upheld, and
 - ❖ The number of cases referred to the **Ombudsman**.

- 25.2 Organisations will also need to record any significant issues raised by complaints, the lessons learned and actions taken.

The Complaints Team will ensure that these duties are addressed through the production of Quarterly and Annual Complaints Reports for the Senior Management Team. The Quarterly Reports will evidence the complaints received during the relevant reporting timeframe by including; the type of complaint, outcome of each, whether timescales were adhered to and relate this to service area provision. The Annual Report will include a full breakdown of this information along with a summary of learning and service improvement activity.

26. Advocacy

- 26.1 Consideration should be given to what type of support, help and encouragement may be required for individuals to pursue their concerns. People whose first language is not English and those with communication difficulties may require support from a Translation Service or an Advocate.

Appendix 1



Background Information

The response to the national 'Making Experiences Count' consultation, published in February 2008, set out the following goals for a reformed complaints approach across health and adult social care:

- ❖ Take a more flexible approach towards handling individual complaints, which focuses on the needs and wishes of the people involved.
- ❖ Simplify things so that it is much easier for people to share their experiences and for organisations to respond.
- ❖ Make sure that people's experiences help to improve services.

The 'Making Experiences Count' guidelines set out a clear and broad framework for the approach to the handling of expressions of dissatisfaction. This is based around 3 key areas:

- ❖ **Listening** – organisations need to have a culture of gathering people's views about the services they receive and to make it clear that they want to know what people think, they are listening and they want to learn from feedback. It must be clear how people can complain and all types of feedback – whether complaints, concerns or compliments – are welcome. The initial contact with someone who has concerns or wishes to complain is key to this process. It is important to:
 1. Find out the issues.
 2. Find out what they want to happen as a result.
 3. Obtain the right information to assess the seriousness of a complaint.
 4. Agree a plan and timescale at the outset.
 5. Maintain regular communication.
 6. Act promptly.
- ❖ **Responding** – by correctly assessing the seriousness of a complaint about a service, the right course of action can be taken. This approach focuses on ensuring organisations gauge the impact of complaints on the people involved, the potential risks to the organisation and the response required.
- ❖ **Improving** – complaints provide a vital source of information about people's experiences and there is a clear expectation that organisations will use this information to make improvements within services, so that the same issues are not repeated. This will form the basis of an action plan and will be reported in an Annual Complaints report.

Personalisation means thinking about public services and social care in an entirely different way – starting with the person rather than the service. Personalisation reinforces the idea that the individual is best placed to know what they need and how those needs can best be met. Therefore any complaints process must start with the individual and enable them, whatever their background or circumstances, to make a complaint. The purpose is to move from a prescribed system to one that allows the person complaining to identify the best way to get a satisfactory outcome.

The new **Regulations** are a result of the Making Experiences Count consultations and came into force on **1st April 2009**. Their purpose is to enable local organisations to develop more flexible and responsive complaints handling systems that focus on the specific needs of the complainant, seek to reach speedy local resolution, and facilitate coordinated handling of cross-boundary complaints. There is also the introduction of a single local resolution stage, replacing the tiered stages prescribed by the old local authority social care regulations.

The Regulations require organisations to:

- ❖ Publicise complaints procedures.
- ❖ Acknowledge receipt of a complaint and offer to discuss the matter within **3** working days.
- ❖ Deal efficiently with complaints and investigate them properly and appropriately.
- ❖ Write to the complainant on completion of a complaint investigation, explaining how it has been resolved, what appropriate action has been taken, and reminding them of their right to take the matter to the **Health Service Ombudsman or Local Government Ombudsman** if they are still unhappy.
- ❖ Assist the complainant in following the complaints procedure, or provide advice on where they may obtain such assistance.
- ❖ Ensure there is a designated manager for complaints.
- ❖ Have someone senior who is responsible for both the complaints policy and learning from complaints.
- ❖ Produce an annual report about complaints that have been received, the issues they raise, and any matters where action has been taken or is to be taken to improve services as a result of those complaints. This report will be made available to the public.

If the complaint involves two or more organisations, the person complaining should get a single, coordinated response.

The **Care Quality Commission** also require registered providers of services to investigate complaints effectively and ensure that learning from complaints is reflected in risk management and training and development arrangements.

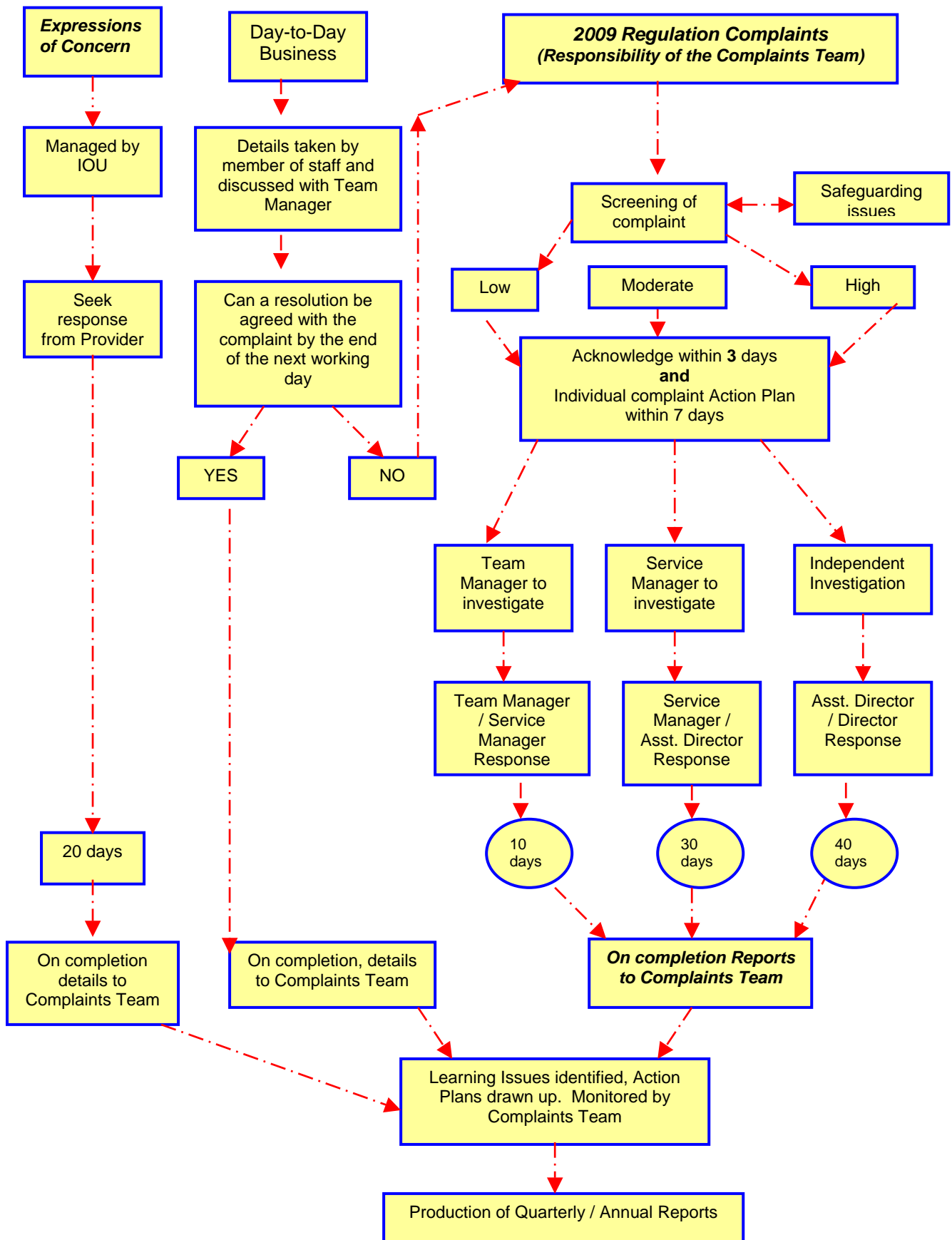
People wishing to make complaints must do so within **12** months of an incident happening or of becoming aware of the matter complained about.

The Local Government Ombudsman have also issued guidance regarding good complaint handling and this can be summarised as follows:

- ❖ Getting it right.
- ❖ Being customer focused.
- ❖ Being open and accountable.
- ❖ Acting fairly and proportionately.
- ❖ Putting things right.



COMPLAINT HANDLING FLOWCHART



Appendix 3



Complaint Handling Guidance For Staff

What is a Complaint

A complaint is any expression of dissatisfaction about a service that is being delivered or the failure to deliver a service or the behaviour of a staff member.

The Adults Complaint Procedures

The Adult Social Care and Health Department of St Helens Council seeks to resolve all complaints about its services in an effective and timely manner by working with individual complainants to resolve complaints made and by using feedback received to improve services.

The Complaints Procedures identify two aims:

1. To resolve complaints more effectively by responding more personally, positively and promptly to individuals.
2. To ensure that services actively use complaints as an opportunity to improve service performance and quality.

The Receiving of a Complaint

The emphasis in the Complaints Procedures is on resolving complaints as quickly and satisfactorily as possible with a customer focussed approach.

The approach for staff should be to consider all complaints as close to the point of contact as possible. In many cases staff will be able to respond and resolve these at the time and place that the complaint is made.

Therefore when receiving a complaint, staff should take the following steps:

1. Confirm the details of the complainant;
2. The actual complaint and
3. The desired outcome.

If the complaint appears to include safeguarding issues, then the Safeguarding Procedures must be followed and the complaint information immediately passed to your line manager. The complainant must also be informed regarding the actions taken.

If the complaint has no safeguarding issues, staff should consider (in discussion with their line manager) if it can be resolved locally and promptly. This is an important stage, as it would depend on the nature of the complaint, the issues raised and if it can be resolved by the end of the next working day.

If a resolution to the complaint can be agreed by the end of the next working day, then agree with the complainant the steps that will be taken to seek resolution and the form of response. The complaint will be classed as day- to-day work and is not subject to the **2009 Regulations**.

If it is not possible to resolve the complaint by the end of the next working day, or the complainant remains dissatisfied, then immediately forward the complaint to the Complaints Team. Staff must explain that this has happened and all details regarding the complaint have been handed over. The complainant must be provided with contact information for the Complaints Team and the complaints officer who has received the complaint details. The Complaints Team will then acknowledge the complaint within **3** working days.

Dealing with the Complaint

If you have answered **YES** to managing the complaint within your service area, then the timescale for resolution is by the end of the next working day.

The complaint must be recorded and all activity undertaken, recorded within the client's case file. This information must also be forwarded to the Complaints Team upon resolution. The Complaints Team will then be able to monitor the number and range of informal complaints managed within and across service areas. This will assist Department learning regarding complaints and the identification of any themes or cross service issues.

If you have answered **NO** to managing the complaint within your service area, then the management of the complaint will be the responsibility of the Complaints Team.

The Complaints Team will screen the complaint with regard to the seriousness of the issues raised and then develop an Individual Complaint Action Plan with the complainant. This plan will identify the type and level of enquiry into the complaint, the person to undertake this and the appropriate timescales involved.

Learning from Complaints

The Complaints Team will then monitor this activity and include this information and the resolution outcomes within quarterly and annual reports. If the resolution outcomes identify requirements for service improvement then the service areas involved must develop action plans. The Complaints Team will then monitor and report upon these plans and their implementation.

This will allow the Department to learn from complaints made and to utilise this information for the improvement of services and their quality. It is essential to recognise that complaints provide a valuable insight into the experiences of people in receipt of our services and therefore can support positive changes in service provision.

Appendix 4

Individual Complaint Action Plan

Adult Social Care and Health

(To be completed in all cases)

Complainant Name: Tel.	Address
Service User Name: (If different from above) Tel:	Address
Date received:	Responsible Service Manager:
Service area:	Responsible Assistant Director:

Complaint issue	Resolution	Person responsible	Timescale
1.			
2.			
3.			
4.			
Desired Outcome(s) from complaint			
Form of Response			
Advocacy required			

Signed as agreed by

(complainant)

Appendix 5



Initial Complaint Screening

Adult Social Care and Health

Name of service user:

Name of complainant (if not service user):

Date:

Consequence	Occurrence		
	Frequent	Occasional	Uncommon
Serious	HIGH		
Moderate		MODERATE	
Minor			LOW

Issues: (raised by the complaint)

- 1.
- 2.
- 3.

Impact: (of complaint on complainant/service user/organisation)

- 1.
- 2.
- 3.

Grading – High/Moderate/Low
Consequence – Serious/Moderate/Minor
Occurrence – Frequent/Occasional/Uncommon

Complaint Screening Assessment Tool

All complaints will be scrutinised at an early stage to identify the level of complexity and significance they present. Complaint will then be categorised as Low (**Green**), Moderate (**Amber**) or High (**Red**). This categorisation will help to determine the means by which the complaint will be addressed. This is to ensure a consistency of approach to all complaints, enabling us to meet the principles of Making Experiences Count, in particular that we deal with each complaint in a way that is proportionate.

The factors taken into account in determining the category of each complaint will be:

- The issues raised.
- The complainants views about the issues/resolution.
- Previous history (e.g. similar complaint issues from other service users, repeat complaint from same service user).

Green Complaints

These complaints will be around relatively minor issues that can be promptly and readily resolved or addressed through clarification/explanation by the team concerned. These complaints will have no significant implications for the service user or the service.

Examples would be: requiring clarification about part of a care plan, lack of information about who will undertake an assessment.

Amber Complaints

These complaints will be about more complex and/or significant issues that require the intervention of a more senior manager or more detailed investigations into the background and circumstances of the complaint before they can be resolved. They may involve issues that have implications for the service user or the service in terms of practice, procedure or service delivery.

Examples would be: Delay in completing an assessment, disagreement with aspects of a care plan.

Red Complaints

These complaints will be the most serious and complex requiring a level of independence in their consideration and the most rigorous of procedures to address them. These complaints will have significant implications for the service or the complainant in terms of practice, procedure or service delivery.

Examples would be: Significant issues with quality & standards of care, excessive delay in completing assessment so that services are not in place when needed.

Supportive Information for Complaint Screening

The details of complaints will require to be screened to look at the significance of the complaint for the complainant and for the Department and so indicate the manner in which it should be dealt with. Factors to be taken into account when screening are:

- ❖ The likelihood of re-occurrence.
- ❖ The degree of risk for the individual.
- ❖ The degree of risk for the Department.
- ❖ The views of the complainant.

The Complainant Screening Tool provides three alternative ways of dealing with the complaint, starting at **LOW** impact issues, to **MODERATE** and potentially **HIGH** impact. These will be dealt with progressively in ways that are increasingly formal and independent.

To assist with the grading of complaints, the following examples are provided. It is also important to look at the potential support needs of the complainant in order to handle the complaint in a manner that fully involves them. The Complaints Team will be available to provide advice and support to staff undertaking this process.

LOW (dealt with at Team Manager level)

Unsatisfactory service or experience related to care, which has minimal impact for the individual:

- ❖ One off late call where there is no risk to safety or well-being.
- ❖ Lack of clarification around who should be visiting.
- ❖ Lack of clarification of named worker.
- ❖ Missed appointment.
- ❖ Communication issues.

MODERATE (dealt with at Service Manager level)

Service or experience below reasonable expectation, which has the potential to cause problems:

- ❖ More than one late call.
- ❖ Frequent changes of staff.
- ❖ Delays in completing assessments.
- ❖ Disagreement around care plan.
- ❖ Continued missed appointments.
- ❖ Continued communication issues.

HIGH (dealt with by Independent investigation)

Significant issues regarding standards and quality of care, which may involve safety issues and have the potential to cause major problems:

- ❖ Repeated late calls or missed calls.
- ❖ Frequent changes of staff, with new staff not knowing what to do.
- ❖ Uncertainty about who is visiting and when.
- ❖ Excessive delays in assessment and provision of services.
- ❖ Breakdown in care package but no co-ordinated review.

Appendix 6



GUIDANCE FOR INVESTIGATING OFFICERS

THE PURPOSE of the investigation is to gather the relevant and essential information in order to reach coherent and reasoned conclusions on the complaint.

THE ROLE OF THE INVESTIGATING OFFICER

You should

- ♦ Make sure you understand what the complaint is and the outcome the complainant is looking for,
- ♦ Approach the investigation entirely objectively.
- ♦ Make sure that the investigation is sufficiently thorough and you get all the information you need.
- ♦ Make sure that you take an evenhanded approach to all parties involved in the complaint.
- ♦ Take account of the needs and circumstances of the people you may have to interview during the investigation.
- ♦ Not jump to conclusions before all the information is gathered
- ♦ Meet timescales.
- ♦ Work closely with the Complaints Manager; Independent Person (if applicable); and Advocate (if applicable) throughout the investigation and report writing and in keeping the complainant informed.
- ♦ Maintain the highest standards of confidentiality.
- ♦ Be aware of the requirements of data protection.

PROCESS OF THE INVESTIGATION

1. Meet with the Complaints Manager to discuss the complaint and make an interim plan of the investigation, based on the Individual Complaint Action Plan that has already been drawn up. If necessary this can take place over the phone.
2. Make arrangements to meet the complainant, preferably by phone.
3. Make arrangements to see the files, and to hold interviews with people as agreed with the Complaints Manager (these must not take place until after you have seen the complainant and confirmed the complaint with them).
4. Meet with the complainant to ensure that you completely understand the detail of the complaint, that all the complainants concerns are included and their desired outcome is clear.

At this meeting you will:

- ♦ Introduce yourself and explain your role. Allow the Independent Person (if there is one) to introduce themselves and explain their role.
- ♦ Clearly agree the complaint and all the individual parts to it.
- ♦ Allow the complainant to express how they feel.

- ♦ Ask the complainant if there is anyone that they consider has information relevant to the investigation.
- ♦ Establish what outcome the complainant is looking for.
- ♦ Check whether the complainant requires any support or representation.
- ♦ Explain what the process of the investigation will be.
- ♦ Consider whether the complaint can be resolved without further investigation or whether alternative resolution (e.g mediation) is a more appropriate way of dealing with the complaint.
- ♦ Give an estimate of when the complainant should expect a response and agree how & when updates will be given. (A maximum of 30 days Moderate and 40 days High).
- ♦ You may need to be clear with the complainant about what the possible outcomes may be so that they do not have unrealistic expectations that the investigation cannot meet.

This meeting with the complainant is probably the most important part of the process, as it will determine the course of the investigation. It is vital therefore that you are very clear that your understanding of the complaint is the same as that of the complainant and that the complainant has confidence in the integrity of your investigation.

1. Confirm the complaint in writing with the complainant.
2. Obtain all the documentation you need for example:
 - ❑ Consulting case file records.
 - ❑ Copies of timesheets, log books, diary records (remember electronic records).
 - ❑ Relevant policies and procedure document.
3. At this point you may wish to review the list of people you intend to interview and make arrangements with those not already contacted. Interviewees should be advised of what the complaint is (unless to do so would prejudice the investigation) and asked if they would like support in your meeting (usually this would not be their line manager nor anyone involved in the complaint – it may be a union representative (as long as this does not prolong the process – the Complaints Manager will advise if there is any doubt). You should also remind interviewees that they should have the files with them to refer to when you meet.
4. Any professional advice you need in relation to policies, practice or procedures should also be sought.
5. Once you have all the information you need you can compile your report.
6. Draft report shared with the Complaints Manager.
7. Relevant sections of the report shared with those interviewed to check for factual accuracy.
8. Meeting with the adjudicating officer and Complaints Manager where you will present your report and findings. This is the opportunity for you to share with the adjudicating officer what you have found during your enquiries and to make recommendations about resolution. This meeting will inform the adjudicating officers response to the complainant.

INTERVIEWING

1. Before the interview takes place you should have a clear idea of the information you are seeking and preferably a list of questions you will ask.
2. If you expect that an interview is going to be particularly difficult or contentious , you should arrange with the Complaints Manager to have a witness.
3. Begin by explaining your role and make sure that the interviewee understands why you are seeing them & what it is that you are seeing them about.
4. Conduct the interviews in as informal and relaxed a way as possible.
5. Ensure that you concentrate on fact and not opinion or hearsay, seek supporting information.
6. Ask open not leading questions.
7. Try not to express an opinion – or give the impression that you have an opinion.
8. You can persist with a question if the answer is not clear.
9. Front line staff should not be asked to justify policies or procedures; such questions should be addressed to managers.
10. A record should be made of the interview and confirmed with the interviewee. The interviewee should sign the record of the interview.

THE REPORT

1. Remember that there are a number of possible recipients of this report and whilst it is written to inform the Local Authority in reaching it's decision on the complaint, it is also written for the complainant and will be a principal source of information should the complaint go to the **Ombudsman**. You must therefore ensure that the report contains enough detail and is written in such a way that will be understood by and will adequately inform each of those audiences e.g.
 - a. Avoid the use of acronyms.
 - b. Avoid the use of jargon.
 - c. Do use plain English.
2. The report should follow this outline format
 - a. Brief introduction to the complaint.
 - b. Background information, enough to set the context of the complaint.
 - c. The detail of each part of the complaint.
 - d. The complainants desired outcome.
 - e. Outline of the process of the investigation e.g list of people interviewed and whether an advocate or Independent Person was involved.
 - f. The findings in relation to each complaint and a conclusion about whether the complaint is upheld or not.
 - g. Recommendations in relation to the desired outcome or other issues the investigation has found.

Occasionally an investigation may come across issues that are not directly in relation to the complaint or are for the Local Authority only. These should be reported in a separate addendum for the Local Authority.

Appendix 7



Safeguarding Adults Process/Complaints Procedure Protocol

Definition

Safeguarding Adults Procedures – Address allegations of harm, or risk of harm, to vulnerable adults. Includes physical, sexual, financial, emotional abuse as well as acts of neglect and discrimination.

Adult Complaints Procedures – Address complaints about Adult Social Care and Health. A complaint is an expression of dissatisfaction about a service that is being delivered or the failure to deliver a service or the behaviour of staff member.

This protocol is designed to ensure that complaints and safeguarding referrals are dealt with appropriately, that links are made across the two procedures, where called for, to ensure that all issues of concern that are raised are properly addressed.

Receiving a referral/complaint

- Referrals and complaints can be made across the organisation and in a number of ways. The person making the representation is not required to identify the most appropriate process to address their concerns but should be supported by the person receiving the representation to clarify the issues to enable a decision to be made at an early point.
- If the worker receiving the representation is clear about the most appropriate process then the matter should be forwarded to the safeguarding/complaints manager accordingly. If not the matter should be referred to either manager for advice.
- If the representation is received directly by the Safeguarding or the Complaints Manager, they should screen the issues to confirm the right process is being used.

Safeguarding or Complaints process

- If it is not clear at the start which of the two processes should be used the Complaints Manager can be invited to a strategy meeting to advise.
- A strategy meeting convened in relation to a safeguarding adults issue may decide that the issues are not safeguarding but complaints – at this stage the matters can be forwarded to be addressed under the complaints procedure. The Complaints Manager should be informed at an early stage in order to make the necessary arrangements.
- If a complaint investigation/enquiries raises issues of a safeguarding nature, the complaint process should be halted and advice sought from the Safeguarding Manager.

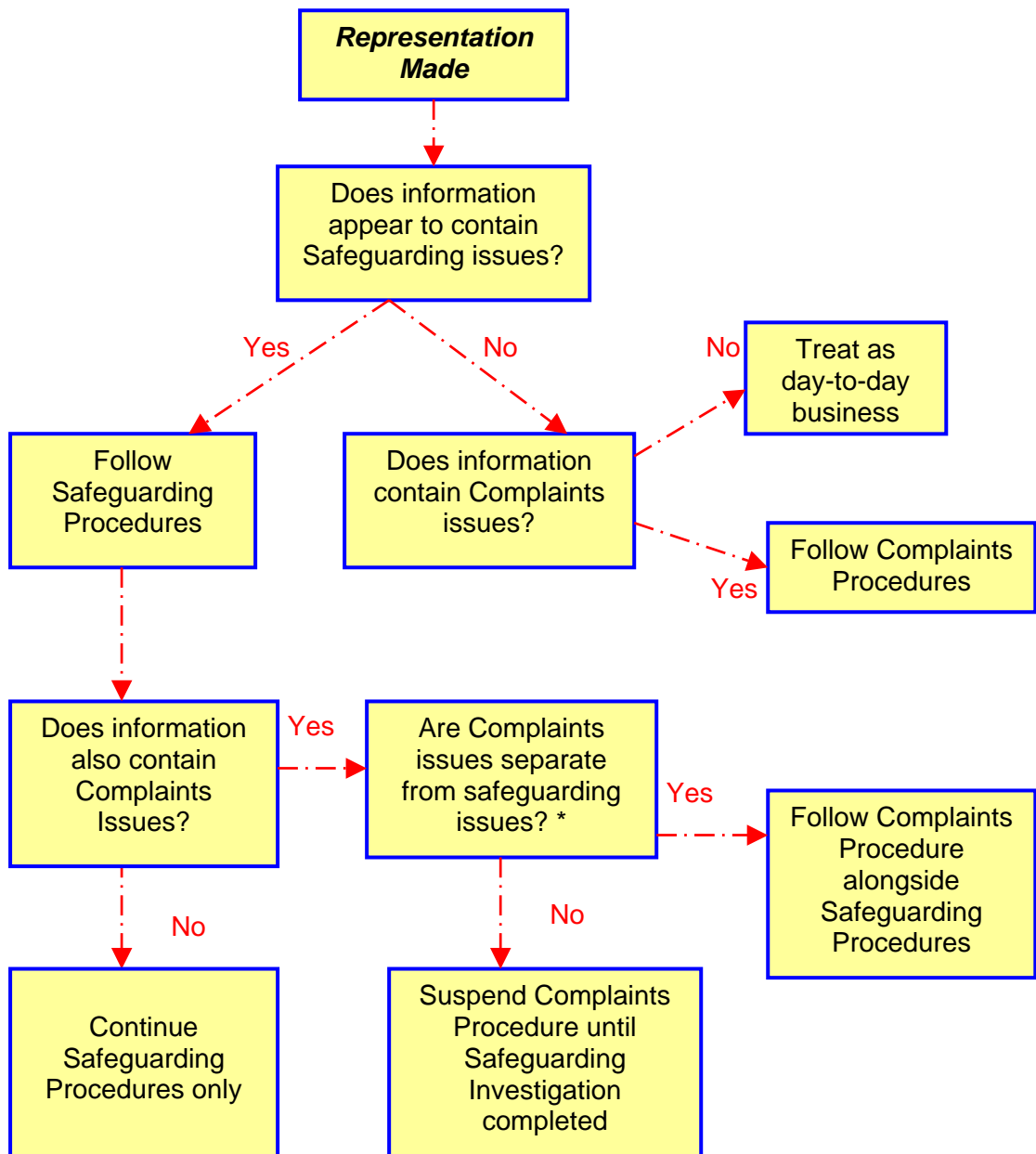
Representations that concern Safeguarding and Complaint issues.

- It is possible that any referral/complaint may contain a number of issues that are both complaints and safeguarding concerns. It is possible in such circumstances for both procedures to operate side by side. This should be arranged in consultation between the Safeguarding and the Complaints Manager, a resolution plan will be drawn up that will reflect each aspect of the representation and state which process is being used to address each issue raised. This plan will be shared with the person making the referral.

Where possible the referrer should receive a single response and this should be co-ordinated between the Safeguarding and Complaints Managers.



Safeguarding or Complaint?



* Please note that the existence of a safeguarding investigation does not necessarily mean the complaint procedure should be suspended. This should only happen where there is an indication that investigation of the complaint may compromise the safeguarding investigation. The Complaints Manager and Adults Safeguarding Manager will discuss this.

Appendix 8



Protocol for Joint Working on Health and Adult Social Care Services Complaints

1 Aim

To provide a framework for responding to complaints, which involve both Adult Social Care Services and the National Health Service (NHS).

2 Scope

This protocol will apply when an organisation receives a complaint, which makes reference to an adult social care service provided by St Helens Council and a health service provided by a NHS body.

The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 make provision for the joint handling of complaints between local authorities and NHS bodies.

Although this protocol does not cover services commissioned/contracted by an organisation, it would be useful for those services to adopt its principles.

3 Definitions

NHS body means Halton & St. Helens NHS, St Helens & Knowsley Hospital Trust and 5 Boroughs Mental Health Trust.

The complaints manager is the person appointed by the relevant organisation to receive and arrange for the investigation of complaints.

4 Information Sharing

Acceptance of this protocol implies agreement to information sharing between organisations within the constraints of the Data Protection Act (1988).

Issues of confidentiality will be the responsibility of all complaints managers and consent from a complainant will be required to ensure joint complaints can be effectively investigated. (See appendix 9 Interagency Complaints).

5 General Principles

The lead organisation for investigating and responding to the complaint will normally be the organisation against which the major component of the complaint is made. (See appendix 9 Interagency Complaints).

The lead organisation will be responsible for communicating with the complainant, obtaining consents to share information, screening the seriousness of the complaint, and developing an agreed Individual Complaint Action Plan. The lead organisation

will maintain ongoing communication with the complainant and coordinate the complaint investigation process.

All organisations will endeavour to comply with the timescales set out in the complainant's Individual Complaint Action Plan to provide timely and coordinated response.

There may be occasion to suspend or halt the investigation of a complaint in the event that legal and/or disciplinary action is started, or issues relating to the safeguarding of adults are identified. In such circumstances, the respective complaints managers and safeguarding managers will liaise with one another and agree a way forward.

6 Process

If staff receiving a complaint are immediately able to resolve it to the satisfaction of the complainant, they should do so irrespective of whether the complaint primarily relates to another organisation. This approach is the basis of good customer care.

If staff are unable to resolve the complaint, they should record it and pass it on to the complaints manager for their organisation.

The complaints manager for the receiving organisation will meet with the complainant to develop an agreed Individual Complaint Action Plan that identifies the nature of the complaint(s), the desired outcomes, associated timescales for resolution and the response format. This approach, along with a screening of the complaint, should then be utilised to establish the lead organisation responsible for the coordinated handling of the complaint.

On receipt of the complainant's consent, the lead organisation will send via secure e-mail a copy of the complaint and the consent to share information to the other organisations involved.

The lead organisation will be responsible for sending an acknowledgement letter to the complainant and maintaining ongoing communication with the complainant regarding progression of the complaint investigation.

The respective complaints managers will arrange an investigation, co-ordinate a response from their service areas and liaise with each other to agree the final response.

The non-lead organisations will ensure that their part of the response is agreed with the relevant Lead Director, Executive Director or Chief Executive.

The final response will then be sent to the complainant by the lead organisation. If there are identified issues that are to be addressed through action plans, the complaints managers involved will agree and identify, at the time of providing the response, the individual(s) responsible for the provision of such information to the complainant.

Joint organisational complaints may identify cross-organisational issues that require a co-ordinated approach. It is important that such activity is monitored and the outcomes reported. Indeed a key feature of the **2009 Regulations** is that of learning

from complaints and the inclusion of service improvement outcomes within respective Annual Complaints reports.

7 If the Complainant remains dissatisfied

If the complainant is dissatisfied with the response to their complaint, then the lead organisation will consider, in liaison with the other organisations:

- ❖ The reasons for dissatisfaction.
- ❖ Whether this is a new complaint.
- ❖ Whether the investigation adequately answered the issues first time around.
- ❖ Whether there is new information.

If it is felt that after this consideration there are grounds to revisit some or all elements of the complaint then this will be agreed with the complainant.

If the complainant is dissatisfied but there are no grounds to revisit some or all elements of the complaint, they will be advised of the next stage of the process. This is a referral to the **Health Service Ombudsman** or the **Local Government Ombudsman** depending upon the area of dissatisfaction.

For advice in doing so you may contact the Local Government Advice Team by telephone on 0300 061 0614 or 0845 602 1983.

Alternatively you may write to:

The Local Government Ombudsman
P.O Box 4771
Coventry
CV4 0EH.



Appendix 9

Interagency Complaints **(Supportive Information)**

1. Principles

The provision of health and social care services is an increasingly complex arrangement of interagency responsibility. Service users, their carers, friends and relatives cannot be expected to have a detailed understanding of these relative responsibilities and should not have to navigate their way through them in order to have their feedback addressed. Organisations should therefore ensure that any feedback about a jointly provided service or that involves services provided by more than one organisation is dealt with seamlessly, promptly and clearly through a single co-ordinated process. Complainants will be given the advice and assistance they need to make the experience as straightforward as it can be.

To provide a co-ordinated response, it will require:

- Openness and co-operation between agencies at each stage of the process.
- A designated lead and contact for the complainant,
- Clarity about the way in which each issue will be addressed
- Single response and
- Shared learning

2. Process

2.1 Receiving the complaint

- Feedback can be made verbally/in person or in writing at any organisation. Front line staff should be aware that they can take issues relating to other organisations and that representatives should not be asked to make their feedback in another form or at another place.
- Any feedback that involves more than one organisation should be passed to the person within the organisation designated to deal with these issues.
- The 'complaints manager' will be responsible for co-ordination of the complaint along with their counterpart in the other organisation(s).
- The representative should be made aware of any relevant advocacy service

2.2 Establishing the Lead Organisation

For each feedback it will be necessary to establish the lead organisation. The complaints manager for the lead organisation will take responsibility for managing the feedback handling, providing the response and keeping the representative informed.

The lead organisation will be that which:

- Is responsible for an integrated service
- Has responsibility for the majority of issues in the feedback.
- Is accountable for the most significant issues.
- The representative requests.
- Received the feedback, should the issues be evenly divided.
- Is determined by the respective complaints managers.

In addition the representatives wishes can be considered.

2.3 Complaint Screening

A feature of the Making Experiences Count process is the initial impact/risk assessment. This assessment looks at the potential significance of the issues raised by the feedback. It begins to determine the means by which the feedback will be addressed by allocating a grading. This process of grading the feedback cannot be carried out by one organisation on behalf of another and therefore must be conducted by each of the organisations concerned in co-operation. It will be the responsibility of the lead organisation to co-ordinate the process but each organisation is accountable for the grading of issues relating to its own services. Where it is necessary to contact the representative for the purpose of grading the complaint agreement will be reached between complaints' managers about how this is best done to avoid repeated contact.

2.4 Individual Complaint Action Plan

To ensure clarity about the process for addressing the issues raised, an Individual Complaint Action Plan will be drawn up. This plan will:

- Set out each element of the feedback.
- State how each element will be addressed & by whom.
- Establish timescales.
- Record the preference for method of contact e.g. in person, in writing.
- Agree advocacy involvement where appropriate.
- Establish the relevant consents (consent should be sought only once & should apply to all organisations involved).

In addition clear agreement should be reached about the process of investigation, arrangements for the response & organisational sign off.

The complaints manager from the lead organisation will draw the resolution plan together in consultation with the other organisations concerned. All organisations will agree the plan and the plan will be shared with the representative. The agreed resolution plan represents a commitment, on the part of each organisation, to co-operate with the efforts to resolve the complaint. It is the responsibility of the complaints manager in each organisation to ensure that the necessary people, records, procedures etc are available to the complaint investigator, without separate requests having to be made, and check that appropriate consent/s have been received.

3. Response

It should always be the aim to have a single response to inter-organisation feedback. In some circumstances this may not be possible, for example if one issue is going to take significantly longer to deal with than others. Representatives should always be advised of this as soon as possible.

If the feedback requires an adjudication/ management meeting again this should be a joint process to facilitate the single response. If adjudication cannot be held jointly they should take place within a timescale that would not prolong the response. The appropriate managers in each organisation must agree/sign off the responses before they are sent.

4. Findings

Learning from feedback is a vital feature of the process and inter-organisation feedback handling offers an opportunity for organisations to learn from each other. The process of investigation should ensure that issues requiring action/service improvements are identified. The lead complaints manager should ensure that any learning points/identified actions are forwarded to their counterpart in the relevant organisation.

The lead complaint manager will follow up with user feedback/satisfaction surveys to the representative.

5. Consent to Information Sharing

In order to deal with feedback effectively it will be necessary for organisations to make information that they hold on individual service users/patients available to investigators from other organisations. Similarly they will be required to give access to internal policies/procedures.

In respect of personal information this must be handled in line with the principles of the Data Protection Act, Access To records procedures, Caldicott and any confidentiality policies the respective organisations may have. Investigators should also be aware of their responsibilities in respect of confidentiality.

Consent to share information must be sought from the representative and, if different, from the service user/patient. If the service user/patient is deemed not to have capacity in this respect then consent can be sought from their representative.

Wherever possible consent should be given in writing, if this is not possible consent should be recorded carefully on file. Consent should be sought only once for each investigation and should apply to each organisation involved

If consent is not given to share information then it should be explained to the representative that they can take the issues direct to the organisation concerned, or pursue their issues through the joint route but with the understanding that the investigation will be compromised through lack of access to information or withdraw feedback that cannot be effectively looked into without access to some records.

Once consent to access to information is given organisations should make every effort to ensure the requested information is readily available to the investigation. This includes verbal information from the staff of the organisation.

Information that is made available to the investigation of a complaint must only be used for the purpose for which it was obtained. Only information that is relevant to the feedback and its investigation should be shared.

DEFINITIONS

Complaints Manager – Person within the organisation designated to deal with complaints under regulation 4(1)(b).

Feedback – Complaints, comments, concerns & compliments that require action and a response.

Representative – person making the complaint, comment, concern compliment. May be the service user or someone acting on their behalf.

Service user representative/person acting on behalf of the service user –
person defined in regulations 5(2), 5(3)

Regulations - The Local Authority Social Services and National Health
Service Complaints (England) Regulations 2009

Organisations – The organisations to which this protocol applies are as follows:

St Helens Adult Social Care and Health Department
Halton and St Helens NHS
5 Boroughs Mental Health Trust
St Helens and Knowsley Hospital Trust

Statement of consent for the disclosure of personal records

Complainant's name: -----

Complainant's address: -----

Telephone number: -----

I hereby give my consent for the organisations listed below to share any relevant
information in order to complete the investigation into my complaint. I understand that
this is likely to include disclosure of my personal records.

----- (Lead Organisation)

----- (Organisation)

----- (Organisation)

This will assist the investigation of my joint organisation complaint, which is being co-
ordinated by:

----- (Name of Complaints Manager)

of

----- (Organisation)

The above named Complaints Manager has explained the reason for, and the
implications of, this to me. I understand that information exchanged as agreed by me
must be used solely for the purpose for which it was obtained.

Signed: -----

Date: -----



Flow chart for handling joint organisation complaints.

Complaint received – look at the issues raised to determine which organisation will take the lead. Once this is decided the Lead Complaints Team contacts the complainant to discuss their complaint, agree how the complaint will be handled and confirm the issues to be addressed. Explain the implications of a joint organisation complaint, who will co-ordinate the response and obtain consent to share personal records.



The Lead Complaints Team contacts the other organisations involved to determine how the complaint is best dealt with. This will also have timescales for completion and the level of the investigation to be undertaken.



The Lead Complaints Team will report back to the complainant for resolution of the complaint. Action plans may need to be developed to demonstrate learning and organisational improvement where appropriate. These should be shared across the organisations concerned to facilitate learning.



Complaints Managers and Other Contacts in Signatory Organisations

Organisation	Complaints Manager (Include name, contact number, email)	Other contact in Complaints Manager's Absence (include name, contact number and email)	Chief Executive / Director of ASCH Approval	Date of approval

Appendix 10



Definition of roles

The Complainant

The following tasks are not binding with regard to the complainant. They should instead, be used as guidance for local authorities to communicate to people wishing to complain. The complainant should receive more effective responses to his complaint where he/she:

- Cooperates with the local authority in seeking a solution to the complaint;
- Expresses his/her complaint in full as early as possible;
- Responds promptly to requests for information or meetings or in agreeing the details of the complaint;
- Asks the Complaints Manager for assistance as needed; and
- Treats all those involved in the complaint with respect.

Complaints Manager

Key tasks for the Complaints Manager may include:

Overseeing the Procedure by:

- Managing, developing, resourcing and administering the complaints procedure;
- Overseeing the receipt and investigation of complaints that cannot be resolved initially;
- Appointing Investigating Officers and Independent Persons (as appropriate);
- Ensuring that there are no conflicts of interest at any stage between parties involved in delivering the procedure;
- Cooperating with such other persons or bodies as may be necessary in order to investigate or resolve complaints;
- Promoting local resolution;
- Monitoring the progress of the investigation and ensuring its smooth running;
- Making recommendations to the local authority on any other action to take following an investigation;
- Monitoring and reporting on time scales;
- Maintaining the Individual Complaints Action Plan
- Compiling the annual report;

Maintaining a customer focus by:

- Providing a sensitive, customer-focused service for representations and complaints;
- Providing help and advice to people who may wish to make a complaint so that they understand the options available for resolution, both within the complaints procedure or through alternative routes of remedy and redress;
- Ensuring that independent advocacy is explained, offered and provided, when required;
- Ensuring the complainant and key people are kept informed at all stages, and offering advice where required, particularly on the response of the authority;

- Providing practical support to complainants;
- Promoting the use of Independent Persons where necessary for vulnerable adults;

Supporting the local authority by:

- Providing guidance, advice and support to staff on management of complaints;
- Supporting staff involved in all stages of the complaints procedure;
- Commissioning appropriate training;
- Overseeing the arrangements for publicity;
- Evaluating and reporting on the numbers, types, outcomes and trends of complaints to inform practice, development and service planning;
- Maintaining a pool of people with skills and training needed to conduct investigations;
- Ensuring that commitments given in responses (including adjudications) are implemented;

Investigating Officers (IOs)

The Investigating Officer has overall responsibility for investigating the complaint at Moderate and High Levels. Where a member of staff, the Investigating Officer should not be within line management of the service being complained about.

Local authorities may ask the Investigating Officer to undertake these tasks:

- Providing a comprehensive, open, transparent and fair consideration of the complaint through:
 - Sensitive and thorough interviewing of the complainant;
 - Consideration of social work records and other relevant information;
 - Appropriate interviews with staff and other people relevant to the complaint;
 - Analysing information;
- Working to tight timescales;
- Prioritising work appropriately;
- Writing a clear investigation report in plain language;
- Effectively liaising with the complainant or his advocate, the Independent Person and the Complaints Manager as appropriate;
- Providing an open, transparent and fair consideration of the complaint; and
- Identifying solutions and recommending courses of action to resolve problems.

Independent Person (IP)

The appointment of IPs should also be considered at Moderate or High levels of the Adult procedures on grounds of vulnerability of the complainant or the complexity of the complaint.

The person appointed should not be an employee of the local authority, or a spouse of an employee or member of the authority. Former local authority staff should be considered eligible as long as at least three years have elapsed since the local authority employed them.

The Independent Person cannot undertake any other roles in the consideration of the same complaint (such as Advocate).

The local authority should refer the Independent Person to the duties set out for the Investigating Officer.

The Independent Person should also:

- Ensure that the process of investigation is open, transparent and fair;
- Work alongside the Investigating Officer to provide an independent and objective view to the investigation of complaints;
- See the same relevant files and documents as the Investigating Officer;
- Participate in all interviews and discussions relevant to the investigation;
- Read the Investigating Officer's report and produce his own report on the investigation;
- Comment on each of the complaints and state whether he agrees with the Investigating Officer's findings on them; and
- Explain, where necessary, his reasons for considering an investigation to be unfair or incomplete and to advise the complainant of these in his report.

Advocates in the Complaints Procedure

The role of the advocate was established under the Advocacy Services Representations Procedure (Children) (Amendment) Regulations 2004.

The advocate should provide independent and confidential information, advice, representation and support. Further guidance on advocacy can be found in *Get it Sorted: Providing Effective Advocacy Services for Children and Young People Making a Complaint under the Children Act, 1989*, Department for Education and Skills, 2004. The local authority may wish to apply aspects from this for adults seeking to complain as appropriate.

Senior Managers

A Senior Manager, within the context of this guidance, is a manager in the local authority with a senior position to make strategic decisions regarding service delivery. This role would ordinarily be met by an Assistant Director or above (though specific designations will vary within each local authority).

Adjudicating Officer

The Adjudicating Officer should normally be a Senior Manager reporting to the Director responsible for Adult Services.

The purpose of the Adjudicating Officer is to consider the complaints, the Investigating Officer and Independent Person's findings, conclusions, and recommendations, and the complainant's desired outcomes.

The Adjudicating Officer writes to the complainant at the end of the investigation at Moderate and High levels with details of the adjudication which:

- Confirms the local authority's response to the report;
- Gives his/her view on whether the investigation has been thorough and complete;
- States his position on the Investigating Officer's and Independent Person's findings against each point of complaint;
- States any actions that he/she may be taking and their timescale for implementation;
- Remind the complainant of his/her right to approach the Local Government Ombudsman at any time.

- Sign off the complaint when satisfied the Department's response is appropriate and proportionate.

The Adjudicating Officer issues the Investigator's report and the Independent Person's report (where applicable) to the complainant, normally with his/her adjudication response.

He/she should also release the report(s) to his staff as appropriate.