

## Health and Adult Social Care

# Adult Social Services Complaints Policy and Procedure

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## **Introduction**

This document explains the way in which representations made about Ealing Council Adult Social Care services will be addressed under The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

The services to which this policy applies are social care services to:

- older people
- people with a physical disability
- people with a learning disability
- other vulnerable people
- people with mental health problems

The policy also applies to representations about social care functions which fall outside the Children Act 1989 Representation Procedure (England) Regulations 2006.

## **Principles**

Our policy is about putting the service user, and/or their representative, at the centre of efforts to resolve the issues they have raised. We recognise the importance of listening to our service users' experiences and views about our services – particularly if they are unhappy – and we want to make it as easy as possible for them to let us know their views.

We will ensure that representations are dealt with in a way that is:

Open – information gathered about the issues raised and the way in which they have been handled will be shared in full

Clear – the representation and the way in which it will be handled will be agreed at the start with the complainant

Responsive – the needs of the complainant and/or service user/carer will be taken into account in determining the method of addressing their concerns

Flexible – the complaint/representation handling will be determined by the nature of the complaint and views of the complainant

Proportionate – the efforts to resolve and time taken in addressing the issues raised will reflect the significance of those issues

Accessible – the procedure will be easy to access and use

Timely – complaint handling will be conducted in a timely way – rather than subject to preset timescales

Resolution focussed – at all points through the process we will look to resolution

Complaints will be dealt with in a way that is most suitable to the issues raised rather than according to a set procedure. The way in which the complaint will be addressed will take into account the:

- complainant's views
- nature of the complaint
- potential implications for the complainant
- potential implications for the organisation

We want everyone who is involved to feel confident in the process and will achieve this through a procedure that ensures:

- concerns are taken seriously
- complaints are dealt with promptly and effectively
- there is a full response and a clear outcome for complainants
- complaints are dealt with fairly and impartially
- all those involved in the process are treated with dignity and respect
- there is equality of access and standard of service for all complainants, with particular consideration for those people who may find it more difficult to use the process, for example people with disabilities, those whose first language is not English
- complaints drive learning and improvements

### **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.

A complaint/representation can be made in person, in writing, by telephone or email or through the Council's website. Every effort should be made to assist people in making their complaint and any member of staff can take a complaint, if that is what the complainant wishes.

The word 'complaint' does not have to be used before it is dealt with as such. If it is evident that the person (complainant) is not happy and that the issues can not be resolved immediately, it may well be appropriate to treat their concerns as a complaint.

### **Who can complain?**

A complaint can be made by:

- A person who receives or has received services from Adult Social Services

- A person who is affected, or likely to be effected by the action, omission or decision of Adult Social Services
- A person whose complaint about Children's Social Services falls outside the remit of the Children Act 1989 Representation Procedure (England) Regulations 2006.
- A representative of a child or a person who has died or a person who is unable to make the complaint themselves due to physical incapacity or lack of capacity within the meaning of the Mental Capacity Act 2005..
- A representative of a person who has requested that the representative act on their behalf
- 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.

Where a representative makes a complaint on behalf of a child the Local Authority must be satisfied that there are reasonable grounds for the complaint to be made by the representative rather than by the child.

Where a representative makes a complaint on behalf of a child or a person who lacks mental capacity and the Local Authority is satisfied that the representative is not conducting the complaint in the best interest of the child or person, the complaint will not be considered under the new regulations.

Any decision that a complainant is not a qualifying complainant will be made by the Complaints Manager, in consultation with the appropriate Service Manager and the complainant informed in writing.

### **What can be complained about?**

A complaint can be made about anything that is connected with the Local Authority exercising its social service function. For example:

- If you receive a poor service – Including services we have arranged but are delivered by an independent care provider.
- Our staff's attitude or behaviour.
- Your assessment, care plan, or review of your services.

### **Time limits**

Complaints will only be considered if they are made within 12 months of the date on which the subject matter of the complaint occurred or within 12 months of the matter coming to the notice of the complainant **unless** the Complaints Manager, in consultation with the appropriate service manager, is satisfied that the complainant has good reason for failing to make the complaint within the time limit **and** notwithstanding the delay it is still possible to investigate the complaint.

## **Complaints which will not be considered under this procedure**

A complaint by a Local Authority, NHS body, Primary Care Provider or Independent Provider

A complaint by an employee of a Local Authority or NHS body about any matter relating to that employment

A complaint which is made orally and is resolved to the complainant's satisfaction by the end of the next working day after the complaint was made

A complaint, the subject matter of which has previously been investigated

A complaint the subject of which is being or has been investigated by the Local Government Ombudsman

A complaint arising from an alleged failure to comply with a request under the Freedom of Information Act 2000

Complaints may raise issues which need to be dealt with under other procedures for example:

- allegations relating to safeguarding that should be investigated through the POVA procedure. (See Protocol at Appendix 1 – *To follow*)
- conduct that should be investigated under disciplinary procedures
- allegations of criminal offences which should be investigated by the police
- where legal proceedings are pending in relation to the substance of the complaint

If at any point it becomes apparent that there are elements of the complaint that should be addressed through other procedures, that part of the complaint will be suspended and moved to another procedure as appropriate. However, wherever possible, complaints will be progressed alongside other procedures as long as that does not compromise any other process.

Complainants will be kept informed of any decisions in this regard

## **Cash budgets**

Service users and their representatives cannot raise issues under this procedure about services that they arrange and pay for themselves through a cash budget. However, issues can be dealt with under this process that relate to the role of the

Local Authority in Individual Budgets, for example in assessing eligibility, support planning and setting up payments for the purpose of Cash Budgets.

### **Contracted services**

Adult Social Services are increasingly working with the independent sector in commissioning services for our service users. When people have concerns about the services we have commissioned, we believe that they should have the same rights and standards in getting those concerns addressed as users of in-house services. Therefore, we will ensure that commissioned services have robust complaints procedures in place and, the service user can choose to have their concerns addressed through our procedures by coming to us rather than the provider.

### **A single integrated complaints process for health and social care**

Where a complaint covers services arranged by the NHS as well as adult social care the Complaints Manager will ensure that early discussions take place between relevant staff at health and the Council to agree who should take the lead role. Joint Complaints will be processed under the North West London Health and Social Care protocol for the handling of complaints. (See Appendix 2 – *To follow*) Where it is agreed that the NHS should lead, usually where the greater part of the complaint concerns health services, then adult social care staff will co-operate fully to support an joint response unless it is agreed with the complainant that the elements are best dealt with separately by the council and the NHS. Where the Council is leading similar agreements will be reached with health colleagues.

### **Oral complaints resolved before the end of the next working day.**

If a member of staff receives a complaint by telephone or in person, they must take the following steps:

Confirm details of complainant, service user, complaint and desired outcome  
Pass to Team Manager or equivalent for attention.

Team Manager or equivalent to consider whether the issues can be resolved locally and within 24 hours.

- If yes:

Team Manager or equivalent to look into complaint and respond

Team Manager or equivalent to make a record of the issues of concern and record details of complaint and response on Frameworki

- If no, or if complaint is in written form:  
Team Manager must notify the Customer Care Team and the complaint will be dealt with under the following procedure.

### **Written complaints and oral complaints which are not resolved by the end of the next working day**

#### **Acknowledging complaints**

Staff who receive such a complaint must immediately notify the Customer Care Team.

The Customer Care Team will acknowledge the complaint within 3 working days. This acknowledgement will include an offer to discuss concerns with the complainant, either in person or on the telephone.

#### **Initial Complaint screening**

Initial complaint screening is undertaken by the Customer Care Team before the acknowledgement is sent. It allows us to begin to look at the significance or potential significance of the complaint for the complainant and for the organisation. Complaint screening gives an indication of the way in which we should deal with the complaint using the initial risk assessment tool. See Appendix 3.

The complaint risk assessment tool gives us three alternative ways of dealing with the complaint

1. low impact issues (green)
2. moderate impact issues (amber)
3. potentially high impact – those with the greatest significance for service users and the service (red).

Complaints are dealt with progressively in ways that are increasingly formal and independent.

All joint complaints with Health involvement will be categorised as Amber or Red.

It should be noted that it may be appropriate to review the category of a complaint during the course of the investigation.

## **Offer to discuss the complaint with the complainant**

When the Customer Care Team acknowledges the complaint they will offer to discuss the complaint with the complainant. The aim of the discussion is to clarify the complaint details and develop a Complaint Action Plan in consultation with the complainant. It may be necessary to re-categorise the complaint if the discussion provides additional information.

Whether or not a discussion takes place a Complaint Action Plan will be sent to the complainant normally within 5 working days of receipt of the complaint. As a minimum the Customer Care Team will notify the complainant of the anticipated timescale for responding to the complaint.

## **The Complaint Action Plan (CAP) (Appendix 4)**

The Plan will be proportionate to the seriousness of the complaint and agreed with the complainant wherever possible

The plan will include the following:

- specific details of the complaint
- the desired outcome
- whether advocacy is required or mediation should be suggested
- Who is responsible for investigating the complaint
- Timescales for completion of investigation and written response

Where an Amber or Red complaint covers services arranged by the Health Service as well as Adult Social Care, the CAP will be agreed with health colleagues. The CAP will clarify the:

- lead and investigator roles
- scope of the complaint
- extent of independence required
- the timeframes for response

## **Investigation and response**

The category of the complaint will determine the identity of the investigator and the timescale for completion of the investigation and the written response.



See Appendix 5 :Investigation Guidance

### **Green Complaints**

Green complaints will be investigated by the Team manager or Complaints Manager . The timescale for an investigation should be negotiated with the complainant but it should be usual for it to be concluded and a written response sent by the Investigator within 20 working days.

The Investigator will produce a written response in the form of a letter which includes

- a) an explanation of how the complaint has been considered,
- b) the conclusions reached in relation to the complaint
- c) whether remedial action is needed and what that action will be

The Investigator will notify the Customer Care Team that the written response has been sent.

The investigator will also be responsible for ensuring organisational learning takes place irrespective of whether the complaint is upheld in part or not at all.

### **Amber complaints**

Amber complaints will be investigated by the relevant Service Head or a person nominated by the Service Head . An independent element may be considered for Amber complaints, in consultation with the Customer Care Team.

The timescale for an investigation should be negotiated with the complainant but it should be usual for it to be concluded and a written response sent by the Investigator within 25 working days. The maximum period within which a response should be sent is 65 working days.

The Head of Service will be responsible for finalising and signing the written response in consultation with the Complaints Manager. The written response must include the information referred to in (a), (b) and (c ) above.

When the complaint covers services arranged by the NHS the response will also be signed by the Chief Executive of the relevant NHS service.

The relevant Head of Service will also be responsible for ensuring organisational learning takes place irrespective of whether the complaint is upheld in part or not at all

## **Red complaints**

These complaints are the most complex and pose risks to the complainant and/or the organisation. They require a greater degree of formality and independence to address and resolve.

For these complaints the Complaints Manager will appoint an investigating officer. The investigating officer may be independent of the local authority and will always be independent of the service area concerned. The investigating officer will put together a complaint investigation report and the conclusions will be considered by the Director of Adults Services.

The timescale for an investigation should be negotiated with the complainant but it should be usual for it to be concluded and a written response sent by the Investigator within 65 working days.

The Director of Adults Services will sign off the response which must include the information referred to in (a), (b) and (c) above. The complainant will also be sent a copy of the Investigating Officer's report.

When the complaint covers services arranged by the NHS the response will also be signed by the Chief Executive of the relevant NHS service.

The Director of Adults Services will be responsible for ensuring that organisational learning takes place irrespective of whether the complaint is upheld in part or not at all.

## **Provisional Organisational Sign Off**

The Customer Care Team will write to all complainants within 2 weeks of the written response to the complaint to ascertain whether they are satisfied with the outcome. see Appendix 6.

If the complainant is dissatisfied with the response to their complaint, the Complaints Manager in consultation with the Investigating Officer and the responsible Manager will consider:

- the reasons for the dissatisfaction
- whether this is a new complaint

- If it is felt that, after this consideration, there are grounds to revisit some or all elements of the original complaint then this will be agreed with the complainant.
- If it is decided that there are no grounds for further action the final organisational sign off letter will be sent by the Customer Care Team

### **Final Organisational Sign off**

The Customer Care Team will write to all complainants 2 weeks after the Provisional Organisational Sign off to confirm the outcome and advise regarding recourse to the Local Government Ombudsman, (Appendix 7).

For red complaints the Complaints Manager will ensure that Council staff involved in the investigation are informed of the outcome. That responsibility rests with the Team Manager or Service Head for green and amber complaints

### **Learning**

It is a vital part of the process that services learn from the representations that are made about their provision. The process that addresses complaints will identify any areas for improvement or learning and will make suggestions for the actions that will be taken. This will be addressed in the response. Where necessary, action plans will be drawn up and responsibilities assigned. Staff guidance will ensure that this learning is central in the process.

### **Unreasonably Persistent complainants**

From time to time we will come across complainants who seek to raise a number of complaints or who become unreasonable in their conduct or expectations around contact. Whilst every effort should be made to address objectively any concerns that are raised, we must also seek to be proportionate and not to expose our staff to unreasonable behaviour.

When the relationship has become unworkable, the Complaints Manager together with the Director of Adults Social Care Services will consider the matter under the policy for unreasonable persistent complaints at Appendix 8.

## **Mediation**

For some representations the option of mediation may be appropriate. For example 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 will be considered. The Complaints Manager will make the necessary arrangements, after gaining the agreement of both parties. Mediation is not possible without the agreement of those concerned. This agreement will be reflected in the complaint action plan.

Mediation by an experienced mediator will allow both sides to:

- express their own views,
- think about how to put things right
- come together to reach a solution

## **Monitoring**

The Customer Care Team will ensure that records are kept of each complaint received including;

- the type of complaint
- complaint outcome
- timescales agreed
- whether timescales were met
- statistical information about complainants

All learning will be recorded and reported back to the relevant service areas and through quarterly reporting to Directorate Management Team. The Annual Complaints Report will include a full breakdown of this information, along with a summary of learning and service improvement and a review of the operation of the complaints procedure. The Customer Care Team will be responsible for reporting adult complaints corporately.

**Appendix 1 POVA Protocol – To follow**

**Appendix 2 NWL Joint Health and Social Care protocol – To follow**

## Appendix 3 Initial Risk Assessment Tool

### ASSESSING HOW SERIOUS THE COMPLAINT IS

When complaints are received they will be assessed and categorised by the Customer Care Team.

The Customer Care Team will bear in mind that a complaint can have a very different effect on an organisation compared with an individual. This is especially important if someone is vulnerable for any reason, such as poor health, communication difficulties or recent bereavement.

#### Step 1: Decide how serious the issue is

**Low** – Unsatisfactory service or experience not directly related to care. No impact or risk to provision of care. **OR**

Unsatisfactory service or experience related to care, usually a Single resolvable issue. Minimal impact and relative minimal risk to the provision of care or the service. No real risk of litigation.

**Medium** - Service or experience below reasonable expectations in several ways, but not causing lasting problems. Has potential to impact on service provision. Some potential for litigation.

**High** - Significant issues regarding standards, quality of care and Safeguarding of or denial of rights. Complaints with clear quality assurance or risk management issues that may cause lasting problems for the organisation, and so require investigation. Possibility of litigation and adverse local publicity.

#### Step 2: Decide how likely the issue is to recur

**Rare** - Isolated or “one off” – slight or vague connection to service provision.

**Unlikely** - unusual but may have happened before.

**Possible** - Happens from time to time – not frequently or regularly.

**Likely** - Will probably occur several times a year.

**Almost Certain** - Recurring and frequent, predictable.

### Seriousness Likelihood of recurrence

	Rare	Unlikely	Possible	Likely	Almost certain
Low	Low				
		Moderate			
Medium				High	
			High		
High					

## APPENDIX 4: Complaint Action Plan

<b>Name of Complainant</b>			
<b>Name of Service User</b>			
<b>Address:</b>			
<b>Telephone no:</b>			
<b>E-mail</b>			
<b>Preferred method of contact</b>			
<b>Complaint ref:</b>		<b>Date received</b>	
<b>Date acknowledged</b>		<b>Risk assessment level</b>	
<b>How do wish to proceed?</b>	<b>Meeting</b>	Yes/ No	
<b>Which staff to meet with</b>			<b>Availability for meeting?</b>
<b>Is mediation appropriate?</b>	Yes/ No	<b>timescale for completion of investigation</b>	Timescale for written response
<b>Summary of complaint</b>			
1			
2			
3			
4			
<b>Desired outcomes</b>			
1			
2			
3			
4			
<b>Investigating Officer</b>			
<b>Lead agency for joint NHS/Social Care complaints</b>			
<b>If part or all of the complaint is a care standards complaint or a social care provider complaint. Does the complainant consent to details being referred on.</b>			
<b>Advocacy details</b>	Yes/ No	<b>Complaints Team</b>	Yes/No

<b>given?</b>		<b>details given</b>	
<b>Date investigation completed</b>		<b>Date written response sent</b>	
<b>Date provisional sign off sent</b>		<b>Date final sign off sent</b>	
<b>Comments</b>			
<b>Staff Name:</b>		<b>Date:</b>	

## **Appendix 5: Investigation Guidance**

The Investigating Officer must gain a full understanding of the complaint and in order to do so will gather information by:

- interviewing the complainant, carers (if appropriate), staff and anyone else who can assist
- looking at relevant records and documents

On the basis of this information the Investigating Officer will form an opinion about whether the complaint is upheld or not and make recommendations about resolution or redress.

If the complaint is being made on behalf of a service user they should be seen to confirm whether the complaint reflects their wishes and views, if they are not seen then an explanation for not doing so should be included in the report.

### **Findings**

When the investigation/enquiries are completed a report will be prepared the report will include:

- information about the process of the investigation
- description of the complaint
- the information gathered
- whether the complaint is upheld or not on the basis of the information
- recommendations for resolution
- recommendations for service learning and improvement



## Appendix 6: Provisional Organisational Sign Off



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**Private & Confidential**

Customer Care Team  
Perceval House  
14-16 Uxbridge Road  
London W5 2HL  
Tel: 020 8825 8100  
Fax: 020 8825 8566

**your ref:**

**my ref:**

**Please ask for:**

**date:**

Dear,

### **Re: Social Care Formal Complaint, provisional response**

You were recently sent a letter from \_\_\_\_\_ dated \_\_\_\_\_ in response to your complaint. I do hope that you are happy with this letter and that you consider your complaint has been resolved to your satisfaction.

If you are not happy with the Council's response I would be grateful if you would contact me as soon as possible so we can review your complaint.

If I do not hear from you by \_\_\_\_\_ I will assume that you do not wish to pursue your complaint any further. I will write to you again to confirm this.

In conclusion, I would like to thank you for bringing these matters to the attention of the Department. The complaints process provides the Local Authority with an opportunity to scrutinise its practices, policies and procedures and learn from any associated shortcomings.

Yours sincerely,

Complaints Manager (Adults Services)

## Appendix 7: Final Organisational Sign off



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Private & Confidential

Customer Care Team  
Perceval House  
14-16 Uxbridge Road  
London W5 2HL  
Tel: 020 8825 8100  
Fax: 020 8825 8566

**your ref:**

**my ref:**

**Please ask for:**

**date:**

Dear

### **Re: Social Care Formal Complaint, final response**

Further to my letter dated \_\_\_\_\_ and, as I have not heard from you to the contrary I can confirm that your complaint has now been closed.

I trust that the actions taken as a result of your complaint will reassure you as to the seriousness with which the Department considers the issues that you have raised. I hope that you will have experienced the complaints process as thorough and fair.

By working with you, we hope we have resolved your complaint at the earliest opportunity. If however you are unhappy with our reply, the Local Government Ombudsman may take up the matter on your behalf. The address and telephone number are:

Local Government Ombudsman.  
10<sup>th</sup> Floor, Millbank Tower  
Millbank  
London  
SW1P 4QP

Tel: 020 7217 4620

In conclusion, I would like to thank you again for bringing your complaint to the attention of the Department.

Yours sincerely,

Complaints Manager (Adults Services)

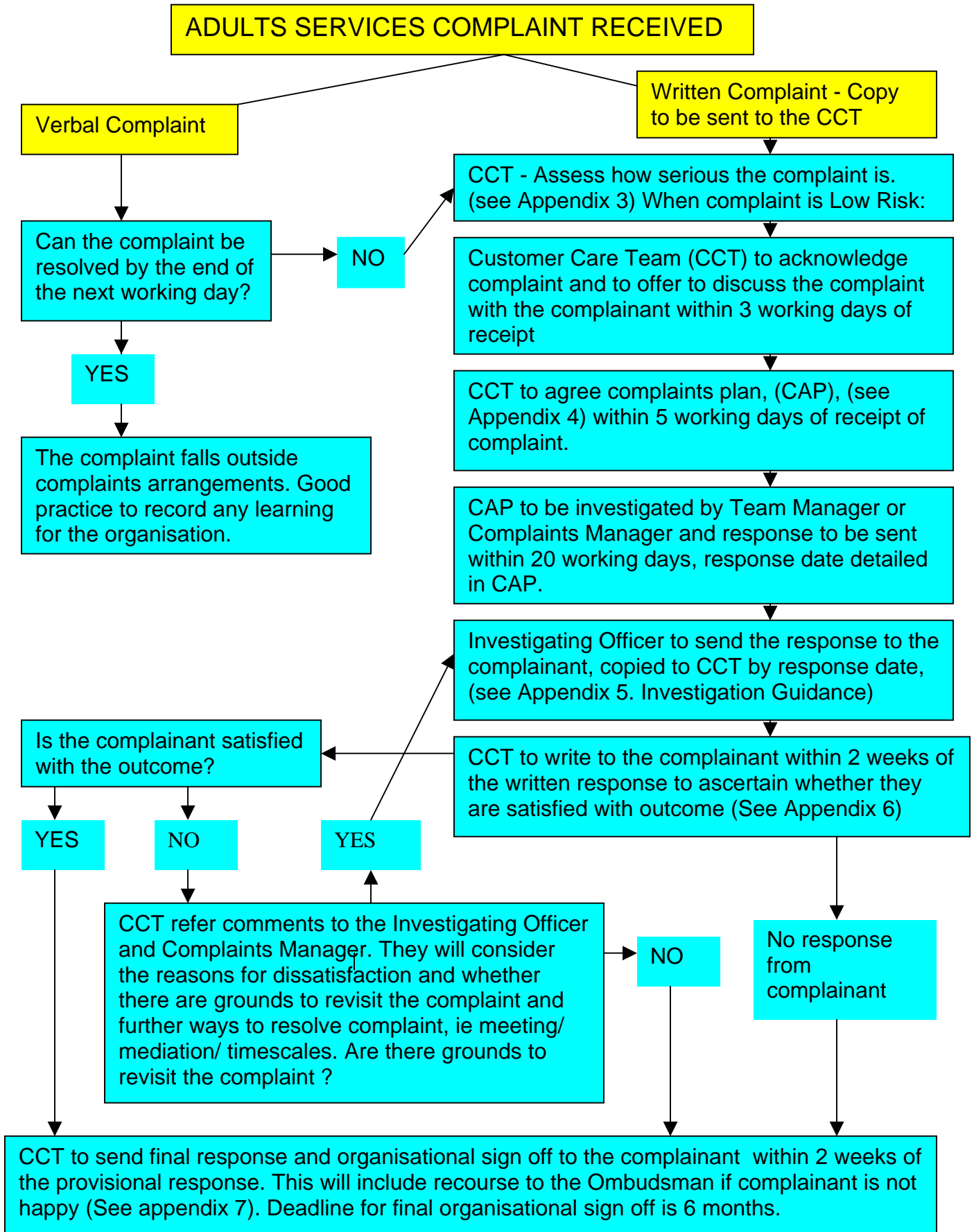
**Appendix 8: Vexatious /unreasonable policy – To Follow**

**Appendix 9: Green Complaints – Low Risk Complaints Flow Chart**

**Appendix 10: Amber Complaints – Medium Risk Complaints Flow Chart**

**Appendix 11: Red Complaints – High Risk Complaints Flow Chart**

## Green Complaints – Low Risk

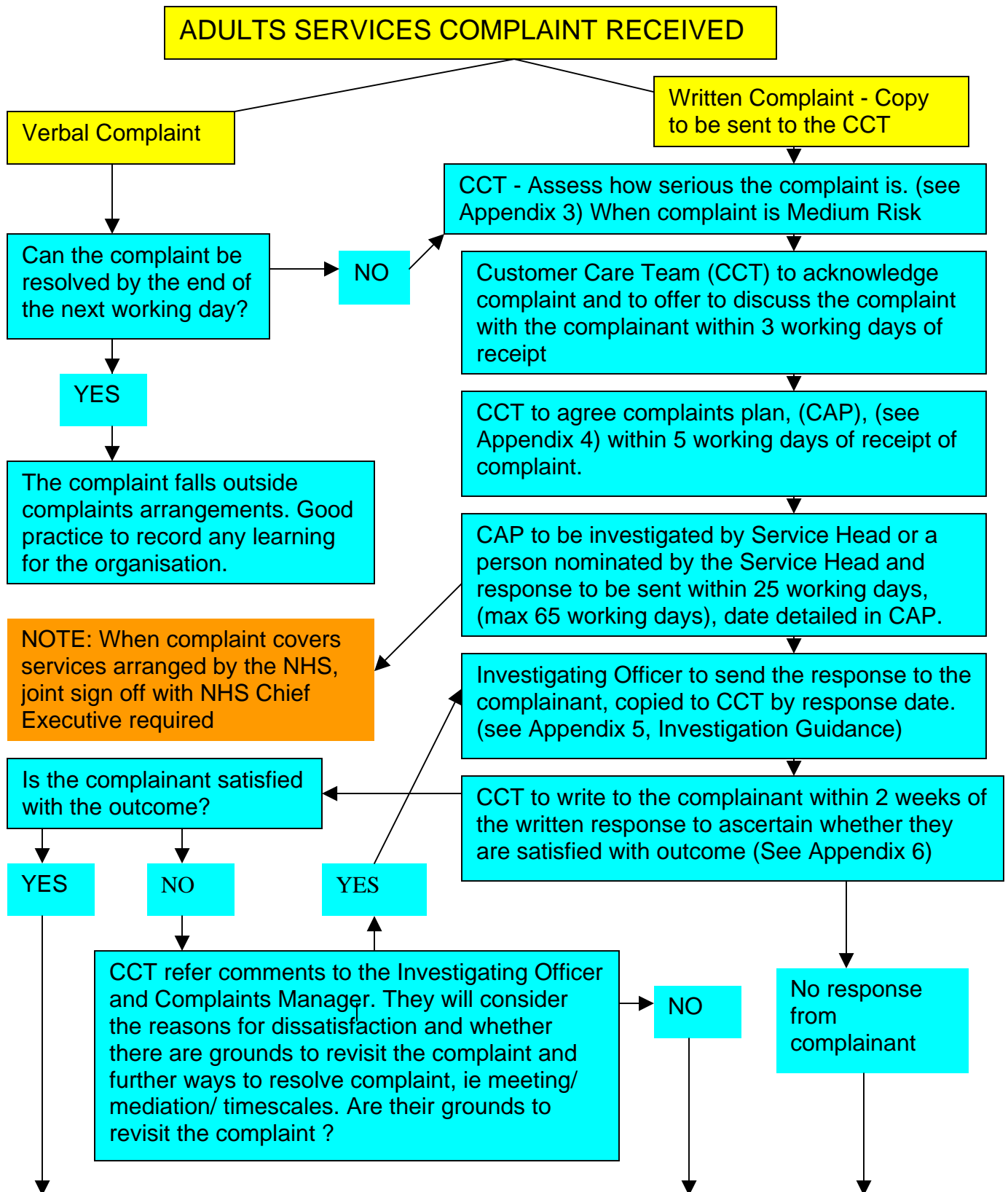


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graph TD; A[The Investigating Officer is responsible for ensuring organisational learning takes place irrespective of whether the complaint is upheld or not.] --> B[The CCT will produce an annual report to include actions taken to improve services and learning from complaints.];
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The Investigating Officer is responsible for ensuring organisational learning takes place irrespective of whether the complaint is upheld or not.

The CCT will produce an annual report to include actions taken to improve services and learning from complaints.

## Amber Complaints – Medium Risk

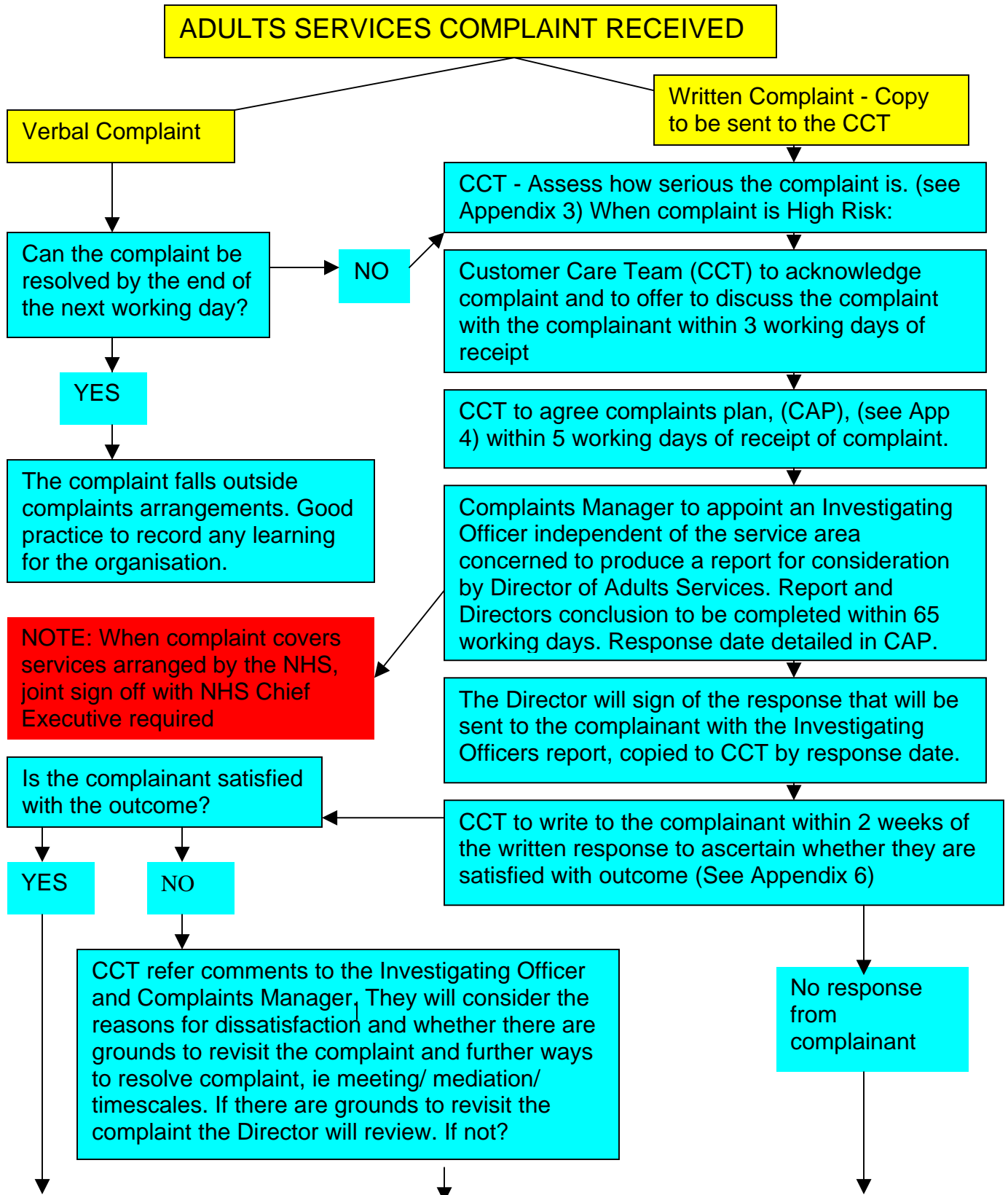


CCT to send final response and organisational sign off to the complainant within 2 weeks of the provisional response. This will include recourse to the Ombudsman if complainant is not happy (See appendix 7). Deadline for final organisational sign off is 6 months.

The Investigating Officer is responsible for ensuring organisational learning takes place irrespective of whether the complaint is upheld or not.

The CCT will produce an annual report to include actions taken to improve services and learning from complaints.

## Red Complaints – High Risk





CCT to send final response and organisational sign off to the complainant within 2 weeks of the provisional response. This will include recourse to the Ombudsman if complainant is not happy (See appendix 7). Deadline for final organisational sign off is 6 months.

The Investigating Officer is responsible for ensuring organisational learning takes place irrespective of whether the complaint is upheld or not.

The CCT will produce an annual report to include actions taken to improve services and learning from complaints.