



Policy and Procedure for Making Experiences Count

Compliments, comments and complaints

PART 1 - POLICY

1. INTRODUCTION

- 1.1. This policy covers all compliments, comments and complaints about Herefordshire Council and NHS Herefordshire and Adult Social Care; it sets out how a compliment, comment or complaint will be dealt with, the timescales, and who should be involved in handling the complaint following the Making Experiences Count procedure. This policy covers all forms of customer feedback for health, adult social care, children and young people and all council services.
- 1.2. Complaints about NHS Herefordshire and Herefordshire Council will be handled by the Customer Insight Unit (CIU) within the corporate customer service team which will be the single point of contact for the customer. A CIU officer will agree a complaints handling plan with the customer, assign an investigating officer, assess risk, ensure that a fair investigation takes place either by a service manager or by a complaints manager, quality check all responses and communication with the customer. The CIU will carry out a full evaluation and monitor customer satisfaction, and ensure reports are made available to all service areas and service improvements are identified and made these will also be published twice a year as stipulated in the Customer Charter.
- 1.3. Complaints about Children's Services and Children's Social Care will be coordinated by the CIU but will be dealt with under a separate statutory procedure, which can be found in the procedure section of this document.
- 1.4. Complaints about schools will be managed by the school and they should be contacted directly in the first instance.
- 1.5. Complaints about services provided by the Wye Valley NHS Trust will be managed and responded to by Wye Valley NHS Trust, unless the complainant requests that the management of the complaint is undertaken by the CIU as part of the commissioning organisation.
- 1.6. Complaints about services provided by the 2gether Mental Health Foundation Trust will be managed and responded to by 2gether Mental Health Foundation Trust, unless the complainant requests that the management of the complaint is undertaken by the CIU as part of the commissioning organisation.
- 1.7. It is important that comments and compliments are recorded and used to understand what services customers would like to receive and how, as well as learning from compliments and making sure that best practice is recognised and used to improve services elsewhere.

- 1.8. The policy seeks to create a positive approach to complaints. Complaints are valued as a means to continuously review and improve the services we offer. By listening to customers and using insight into peoples experiences mistakes can be resolved faster, new ways to improve can be learned and the same problems can be prevented from happening in the future.
- 1.9. Our customers may find it difficult to talk about their views or concerns, they may be worried that complaining will lead to a reduction in services or care; equally they may find it difficult to speak out because of things like how their disability affects them, their language or their level of communication skills, or how their race cultural or religious background, age gender or sex are viewed. The CIU will ensure that all of these issues are taken into account and will provide a service that is fair and equitable, irrespective of an individual's needs, beliefs, age, sexual orientation or race.

2. OBJECTIVES

2.1 To provide an opportunity for customers to comment on our performance against our commitments laid down in the Herefordshire Council and NHS Herefordshire Customer Charter and to ensure we improve our performance where it is not meeting those commitments.

2.2 To provide an effective means for a customer to make a comment about how services could be improved in the future and to provide an effective means for a customer to compliment a service or employee.

2.3 To provide an effective means for customers and their representatives to complain if they are dissatisfied with the service they receive.

2.4 To ensure complaints are dealt with in a courteous and efficient manner and are resolved without avoidable delay.

2.5 To obtain information about the public's perceptions about our services, to inform future policy and service planning.

2.6 There are 6 overriding principles to good complaints handling that will be followed at all times:

1. Being customer focused
2. Getting it right
3. Acting fairly and proportionally
4. Being open and accountable
5. Putting things right
6. Improving services as a result

3. THE VALUE OF FEEDBACK

3.1 All forms of feedback will help us to:

- Understand what services people value and why;
- Share good practice;
- Make sure we learn and develop in a way which ensures we are providing a good service to customers and effects how we shape how services are delivered in the future;
- Recognise when our staff “go the extra mile”.

3.2 We believe that listening to our customers’ suggestions helps us to improve the way we provide services we welcome any suggestions about how we might do things differently or better, and are committed to taking seriously suggestions for service improvements.

3.3. Complaints give us valuable feedback in our continuing bid to develop high quality services and help to give customers confidence that they will be given a fair hearing within agreed timescales.

3.4 The CIU will receive all compliments and comments for recording and monitoring purposes.

3.5 The CIU should be notified of any informal complaints that have been resolved locally, or compliments received, so that they can be recorded and monitored. This will ensure we can share the outcomes and learning across HPS.

3.6 All formal complaints will be referred to the CIU to ensure that they are recorded, tracked and monitored; and that any learning can be shared across HPS.

4. WHAT IS A COMPLIMENT, COMMENT or COMPLAINT

4.1 A compliment, for the purpose of this policy, is defined as:

An expression of satisfaction about how well Herefordshire Council and NHS Herefordshire deliver services or how helpful an employee has been.

4.2 A comment, for the purpose of this policy, is defined as:

An opinion on how Herefordshire Council and NHS Herefordshire could improve on the delivery of our services, or the service we commission.

4.3. A complaint, for the purpose of this policy, is defined as:

An expression of dissatisfaction, however made, about the standard of service, actions or lack of action by , Herefordshire Council and NHS Herefordshire our staff or contractors.

4.4 It is for the customer to decide whether or not to make a complaint. Any employee however should remember that reporting a fault or a problem is not necessarily a complaint, but may be simply a request for service. Some examples of complaints may be:

- we have not achieved the standard we say we will provide, or
- we have not provided the service to the standard which the customer/service user thinks is reasonable, or
- we are doing something which the customer did not want us to do, or
- we are carrying out our duties in an unsatisfactory way, or
- our staff or contractors are behaving in an unacceptable way (including rudeness, violence or aggression), or
- we fail to do something which we have been asked to do
- We fail to do something which the customer thinks we should have done, even if we were not actually asked to do it.

4.5 Generally speaking, a complaint has to be made within 12 months from the date on which the matter occurred, or the matter came to the notice of the complainant..

4.7 Specifically for NHS complaints, customers may choose to complain direct to the commissioner instead the organisation providing the service.

4.9 Where a complaint is made direct to the CIU about an organisation providing NHS or Adult Social Care services, the CIU will discuss with the complainant how the complaint will be handled. Decisions will be based on the complainant's wishes, but no information will be shared with the provider unless consent has been given by the complainant.

4.10 Where the CIU decides to manage the complaint, they will notify the complainant and the provider.

4.11 If the CIU decides it is more appropriate for the complaint to be handled by the provider organisation, with the consent of the complainant it will:

- Notify the provider and the complainant
- When the provider receives the notification
 - the provider must handle the complaint in accordance within the Making Experience Count regulations, and
 - the complainant is deemed to have made the complaint to the provider
 - the CIU should be informed of the outcome

4.12 Where the complainant wishes the CIU to investigate the complaint this will be commenced in conjunction with the provider once consent has been received from the

complainant to share the information. The provider must have the opportunity to respond to the complainant. Once the investigation is complete, the CIU will inform the complainant of the outcomes.

4.13 Where the services are provided by NHS Herefordshire or Herefordshire Council, the complaint must be managed by the CIU

5. COMMENTS, COMPLIMENTS AND COMPLAINTS NOT COVERED BY THIS POLICY AND PROCEDURE

5.1. Internal comments, complaints and compliments are not covered by this policy and procedure.

5.2 Complaints that employees may have about Herefordshire Council or NHS Herefordshire as an employer should be made through the grievance procedure, or other internal channels. However, members of staff have the same rights to raise comments, complaints or compliments about our actions or services as other residents or members of the public.

5.3 The following are covered by different procedures and are exemptions to the complaints policy and procedure, so we may not accept these types of complaints.

- Comments, complaints or compliments from organisations that we commission where the issue is about their funding or related.
- Complaints about schools;
- From employees about issues relating to their employment.
- From councillors, unless they are complaining as ordinary members of the public or as an 'advocate', (representing the interests of someone else).
- Where legal limits are in place, for example:
 - refusing planning permission;
 - cases covered by our insurance procedures;
 - about parking and traffic offences;
 - about refusing to issue disabled badges for parking exemption;
 - about responses to Freedom of Information Act enquiries;
 - where the complaint has already been dealt with in another way.

6. SUPPORT AND ADVOCACY

6.1 All customers who receive service from Herefordshire Council and NHS Herefordshire, and those who feel they ought to, will have access to information about how to compliment, make a comment or complain about that service with appropriate support.

6.2 The Customer Service Unit and Patient Advice and Liaison Service can provide valuable advice and support to people who use services, and their representatives, this can include information about the NHS, social care and other council services and information on how to complain and how to access independent help or advice.

6.3 For NHS complaints an advocacy service is provided by the independent Complaints Advocacy Service (ICAS).

6.5. If our customers feel or appear to be at any sort of disadvantage in being able to express themselves, we will offer them the help and support they need to have their concerns listened to and understood. This may include translation or interpretation services, or referral to sources of local independent advocacy and advice. Advocacy for Children will be made available via the Children's and Young People Department when required.

6.6. Anonymous complaints will be investigated and may be acted upon at our discretion. Should the complainant fear that we will withhold services or care, or treat them less favourably if they complain openly, we will, if required, assist in finding support outside the service.

7. RIGHTS

7.1 Customers have the right

- to be treated with dignity and respect
- to confidentiality (if an investigation cannot proceed without the complainant being identified, the complainant will be given the option whether or not to continue)
- to have any complaint dealt with efficiently and have it properly investigated within agreed timescales and to be updated and consulted if those timescales need to change
- to be offered a face to face meeting to go through the detail of the complaint whenever appropriate
- to know the outcome of any investigation into their complaint
- to be kept informed of the progress of their complaints
- to receive an apology if a complaint is upheld
- to be informed of any changes to our policies or procedures arising from a complaint or suggestion
- To take their complaint to The Parliamentary and Health Service Ombudsman or the Local Government Ombudsman if they are not satisfied with the way their complaint has been dealt with.
- to make a claim for judicial review if you think you've been directly affected by an unlawful act or decision of an NHS body, and to receive compensation if you've been harmed

7.2. This complaints policy does not affect the right of an individual or organisation to approach a local councillor or Member of Parliament for advice or assistance. If this results in a complaint being made by or on behalf of an individual, it will be dealt with using this procedure.

7.3. Our staff have the right to be treated with respect and courtesy and to be spoken to without the use of abusive language at all times by both customers and other staff.

7.4 Where a complaint forms part of, or relates to any legal action being undertaken we reserve the right to delay or suspend investigation of the complaint if it could have an impact on the legal process.

8. Confidentiality

8.1 All customer information, whether held on paper, computer, visually or audio recorded, or held in the memory of the professional, must not normally be disclosed without the consent of the customer. It is irrelevant how old the customer is or what the state of their mental health is; the duty still applies.

8.2 There are three circumstances making disclosure of confidential information lawful:

- where the individual to whom the information relates has consented
- where disclosure is in the public interest
- where there is a legal duty to do so, for example: a court order, or safeguarding concern.

8.3 The Data Protection Act makes it an offence for third parties to obtain personal data without authorisation.

In communications with other parties employees should take reasonable steps to ensure that consent is given by the individual concerned. In many cases this might be implied e.g. a MP letter on behalf of a constituent. However, if there is any doubt whether consent has been given then explicit approval should be requested, particularly where the information is of a very sensitive nature.

8.4 Herefordshire Council and NHS Herefordshire and will take care at all times throughout the complaints procedure to ensure that any information disclosed about the customer is confined to that which is relevant to the investigation of the complaint, and is only disclosed to those people who have a demonstrable need to know it for the purpose of investigating the complaint.

8.5 Herefordshire Council and NHS Herefordshire recognises that it is good practice to explain to the customer that information from his/her health records may need to be disclosed to certain people involved in the stages of complaints procedure (Investigating Officer, Chief Executive, , Health Service Ombudsman).

8.6 Customers will be made aware of the effect it will have on the investigation if they object to their information being disclosed, but the wishes of the customer will be respected, unless there is overriding public interest in continuing the investigation.

9. RISK MANAGEMENT

9.1 One of the key aims of this policy and procedure is to minimise risk to safety and enhance the quality of services and care provided to customers. This policy therefore is a

crucial part of the overall strategy and approach to the management and minimisation of risks identified or arising from comments, compliments, or complaints.

9.2 Specific risks related to the application of this policy and procedures are:

- Delay or failure to respond appropriately to complaints or concerns in accordance with regulations, leaving the organisation open to potential action by the Parliamentary and Health Service or Local Government Ombudsman;
- Not addressing concerns raised resulting in loss of public confidence;
- Failing to identify risk or safety issues and address or reduce them;
- Failing to identify trends or recurrent themes identified from comments and complaints and other forms of service user feedback;
- Failing to build on areas of good practice identified from compliments;
- The need for confidentiality vs the requirement to refer Safeguarding concerns appropriately.

9.3 In accordance with risk management procedures, all complaints will be graded according to the seriousness of the risk. The grading system will consider the severity or impact of risk identified within the complaint and the likelihood of this occurring in the future producing an assessment of low, medium, high to significant risk. Any risk identified will be managed in accordance with risk management procedures. All risks identified will be placed onto the risk register.

10. COMPLAINTS AGAINST STAFF

10.1. If a complaint regarding staff actions or behaviour is found to be valid, then the issue will be referred to the appropriate corporate human resource policy/procedure such as the disciplinary procedure and investigated. This will be regarded as an outcome for the complaints procedure.

11 STAFF AWARENESS AND TRAINING

11.1 All employees will have information about customer feedback at central induction courses.

11.2 The CIU will provide training to employees on how to deal with complaints, comments and compliments.

12 MONITORING, EVALUATION AND REPORTING

12.3 The CIU will keep a record of all complaints, including dates received, acknowledged, responded, category of complaint, actions taken and lessons learned. We will separately monitor complainant profiles in accordance with key equalities criteria.

12.4 All complaints, comments and compliments will be recorded on a single system (CRM) for tracking and monitoring and reporting purposes.

12.5 Regular reports will be sent to service areas and senior management indicating numbers of complaints and compliments received, how many are dealt with within the agreed timescale, what service improvements and changes have been made as an outcome to complaints received.

13 HANDLING UNREASONABLE COMPLAINTS

13.1 We operate a zero tolerance policy with regards to physical, verbal or written abuse towards our staff.

13.2 Where, despite best efforts to resolve a complaint, the complainant becomes abusive, unreasonable or vexatious, staff will follow the separate policy for dealing with unreasonable complainant behaviour.

13.3 Where a complaint is deemed vexatious, they will be informed of the decision in writing and given clear information about how they should contact HPS in the future

PART 2 - PROCEDURE

A) To be followed for all Health Adult Social Care and Council Complaints, Comments and Compliments

Anyone who wishes to make a complaint may do so in person, by telephone, or in writing (by using a complaints form, letter, fax or e-mail.) Complaints should normally be sent to the CIU, but if they are received directly into any service area covered by this policy they will be redirected to the CIU immediately. Any member of staff should be able to accept a complaint, comment or compliment.

On receipt of a verbal complaint, or where a written complaint is passed on in person, the customer should be advised that it will be sent to the CIU who will contact them to arrange how the complaint will be managed

Complaints in person can be made by calling at any of our Customer Services Centres or other offices/sites. Complainants do not need to call at the place responsible for the service about which they are complaining.

Once received, we will acknowledge any complaint within three working days.

All complaints should be referred to the CIU, even where they have been resolved immediately through local action.

1 COMPLIMENTS

If a compliment relating to service delivery is received by any employee, then the individual should forward details of the compliment to the CIU for recording (and response if required) within 1 working day of receipt.

2 COMMENTS

Where a comment is received by any member of staff, details of the comment should be sent by the employee who received it to the CIU for recording and response, within 1 working day of receipt.

3 INFORMAL COMPLAINTS

If a complaint/feedback/concern is received by any employee and they can resolve the issue, all efforts should be made to resolve the issue within one working day. The employee should record the appropriate details on 'informal complaint form' (to be found on intranet) or directly onto the CRM case management system (if you work in customer services) and send to the CIU. **N.B. if an issue is resolved within 24 hours it does not need to be referred, or recorded as a formal complaint.**

If the informal complaint is not resolved within 1 working day it should be sent to the Customer Insight Unit and will become a formal complaint.

4 FORMAL COMPLAINTS

4.1 Where a formal, serious or complex complaint, is received by an employee other than CIU staff, the employee should report the complaint to CIU immediately, ensuring that all the relevant details are recorded on the formal complaints form.

4.2 The CIU will send a written acknowledgement to the complainant within 3 working days of receipt into the Council or NHS, with an offer to discuss the complaint over the telephone, or in person to identify and agree clearly the points for investigation and the complainant's desired outcomes.

4.3 The CIU will ensure that appropriate consent is gained to undertake and investigation and share the complainants details with relevant parties. In addition authorisation from the person who is the subject of the complaint must be gained if a third party is acting on their behalf.

4.4 The CIU will undertake a risk assessment of the complaint. This may involve the CIU liaising with other departments to fully understand the associated risks. Complaints rated as a High risk will be escalated to the appropriate senior manager immediately. Complaints rated as Medium will be discussed with the CIU manager within 48 hours.

4.5 Where necessary a CIU officer will meet/speak with the complainant agree a complaint handling plan for investigation and response. Where complaints involve a simple investigation and response, the acknowledgement letter from the CIU will outline the proposed action and this will be the complaints handling plan.

4.6 If the complaint involves cross service issues the CIU will liaise with the other areas to agree co-ordinated plan.

4.7 The complaint handling plan will be recorded for future reference and a copy will be sent to the complainant.

4.8 The CIU will then liaise with the appropriate department to identify and appropriate investigating officer. This could be a CIU officer, manager or director where appropriate.

4.9 The investigating officer will undertake an investigation in line with the timescale agreed with complainant and recorded in complaint handling plan.

4.10 The CIU maintains contact with the complainant to give advice on progress at regular intervals.

4.11 The investigating officer will provide draft response and the results of the investigation to the CIU at least 3 working days before deadline.

4.12 The CIU will review the response and outcome before providing a formal response to the complainant. This may involve the CIU requesting further clarification or additional information from the investigating officer or the service involved. CIU officers will not send out a response to the complainant until they are satisfied that an appropriate investigation has been undertaken and that proportionate actions and learning have been identified. Where the CIU officer can not gain assurance that an appropriate investigation has been undertaken and that proportionate actions and learning have been identified the matter will be escalated to the CIU manager or assistant director to take the necessary action to find a resolution.

4.13 Complainants will be advised at this stage that they will have 10 working days to respond if they remain dissatisfied with the outcome.

4.14 If there is no further communication after the specified 10 working days is received the CIU will write to complainant to advise that the matter now closed. A complaint handling survey will be enclosed.

4.15 If the complainant is dissatisfied with the response, the CIU will review the complaint in light of any ongoing issues. This may involve a further investigation and/or a meeting with the complainant and the relevant representative(s) from the service(s) involved.

4.16 We will make every effort to resolve customers complaints and ensure that there are investigated fully and fairly. In each response we will provide the complainant with details of the Health Service Ombudsman or the Local Government Ombudsman should they wish to refer the issue.

4.17 Where we have investigated and taken all available actions and the complaint remains unresolved, we will write to advise the complainant that as a result the case will be closed and clarify what options of further redress are available to them.

4.18 The CIU will monitor action plans resulting from complaints to ensure they are implemented. The action and learning resulting from complaints will be reported to the Herefordshire Public Services Leadership Committee, directors and the relevant senior managers.

(see Diagram 1)

5 THE OMBUDSMAN

5.1 If the complaint is unable to be resolved, or a person is not satisfied with the handling of the complaint (at any stage), they will be referred to the Health or Local Government Ombudsman to review the matter.

5.2 For monitoring purposes, the customer insight staff will log the date of receipt by the Council of the LGO request and the date the information is returned to the LGO.

5.3 The CIU will liaise with the Health or Local Government Ombudsman to ensure any information they require is delivered within the agreed time scales.

5.4 Where the Health or Local Government Ombudsman uphold a complaint the CIU will undertake a Root Cause Analysis review to identify what HPS could have done differently to resolve the complaint and will adapt complaints handling policy and practice where necessary.

5.6 Where the Health or Local Government Ombudsman uphold a complaint the CIU will forward the outcome to the relevant senior manager and director to agree the actions to be taken by HPS. Once agreed the actions taken as a result of the ruling will be communicated to the relevant ombudsman and the complainant.

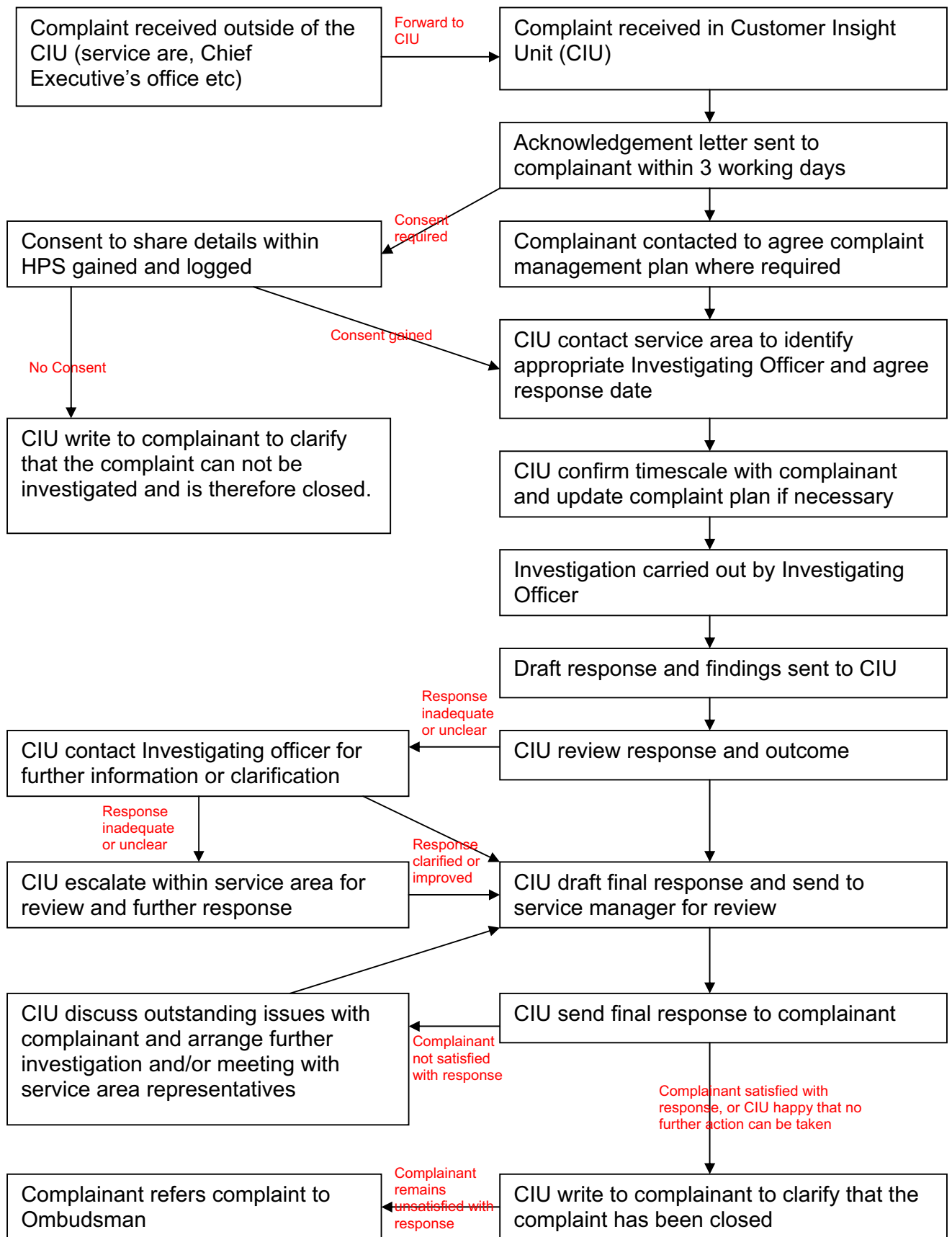
6 WITHDRAWAL OF A COMPLAINT

6.1 The complaint may be withdrawn verbally or in writing at any time by the complainant. The CIU must write to the complainant to confirm the withdrawal of the complaint. In these circumstances, it would also be good practice for the local authority to decide on whether or not it wishes to continue considering the issues that gave rise to the complaint through an internal management review. The local authority should then use this work to consider the need for any subsequent actions in the services it delivers.

Should the complainant then seek to reinstate the complaint, the local authority could use the review to produce a response as necessary.

Flow chart for Making Experiences Count

Diagram 1



B. CHILDREN'S SOCIAL CARE COMPLAINTS AND REPRESENTATIONS FOR CHILDREN, YOUNG PEOPLE AND OTHERS

COMPLAINTS

Any child or Young Person who wishes to make a complaint may do so in person, by telephone, or in writing (by using the child friendly form, letter, or e-mail.) Complaints should normally be sent to the CIU, but if they are received directly into any service area covered by this policy they will be redirected to the CIU immediately for acknowledgement and tracking. Any member of staff should be able to accept a complaint, comment or compliment.

On receipt of a verbal complaint, or where a written complaint is passed on in person, the customer should be advised that it will be sent to the CIU who will contact them to arrange how the complaint will be managed.

Complaints in person can be made by calling at any of our Customer Services Centres or other offices/sites. Complainants do not need to call at the place responsible for the service about which they are complaining.

Once received, we will acknowledge any complaint within three working days.

All complaints should be referred to the CIU, even where they have been resolved immediately through local action.

COMPLIMENTS

If a compliment relating to service delivery is received by any employee, then the individual should forward details of the compliment to the CIU for recording (and response if required) within 1 working day of receipt.

COMMENTS

A comment is received by any member of staff. Details of the comment should be sent by the employee who received it to the CIU for recording and response within 1 working day of receipt.

1. COMPLAINT STAGE 1 – LOCAL RESOLUTION

1.1 A complaint is made on the date on which it is first received by the local authority.

1.2 The expectation is that the majority of complaints should be considered (and resolved) at Stage 1. However, if the local authority or the complainant believes that it would not be appropriate to consider the complaint at Stage 1, they should discuss this together. Where both parties agree, the complaint can move directly to Stage 2.

1.3 The CIU will undertake a risk assessment of the complaint. This may involve the CIU liaising with other departments to fully understand the associated risks. Complaints rated as a High risk will be escalated to the appropriate senior manager immediately. Complaints rated as Medium will be discussed with the CIU manager within 48 hours.

1.4 The complaint will be acknowledged within 3 days of receipt and officially recorded by the CIU. They will act as the single point of contact for the child or young person. The CIU will liaise with the Children's and Young Peoples Directorate to establish the most appropriate independent reviewing officer.

1.5 At Stage 1, staff at the point of service delivery – including the Independent Reviewing Officer where appropriate – and the child or young person should discuss and attempt to address the complaint as quickly as possible. This will be coordinated by the CIU. They should discuss the issue and exchange information and thinking behind decisions and try to agree a way forward.

1.6 Regulation 14(1) places a 10 working day time limit for this part of the process. Most Stage 1 complaints should ideally be concluded within this time limit.

1.7 Where the local authority cannot provide a complete response it can implement a further 10 days' extension (regulation 14(5)). If necessary, the local authority may also suspend Stage 1 until an advocate has been appointed (regulation 14(3)). The maximum amount of time that Stage 1 should take is 20 working days. After this deadline the complainant can request consideration at Stage 2 if they wish.

1.8 The CIU will inform the complainant that they have the right to move on to Stage 2 if the time scale has elapsed for Stage 1 and the complainant has not received an outcome. It may be that the complainant is happy to put this off for the time being (for example, if the reason that resolution is delayed due to a key person being off sick or on leave), so this period can be extended with the complainant's agreement or request.

1.9 If the matter is resolved, the CIU must write to the complainant confirming the agreed resolution and the relevant Children's and Young Peoples Directorate manager should be informed of the outcome as soon as possible. Otherwise, a letter should be sent by the CIU to the complainant (or a meeting offered, if this is more appropriate) responding to the complaint.

1.10 Where the matter is not resolved locally, the complainant has the right to request consideration of the complaint at Stage 2. There is no time-limit within which they must request this, but CIU may wish to recommend that the complainant does this within 20 working days so that momentum in resolving the complaint is not lost. The local authority is under a duty to operate expeditiously throughout the complaints handling process (regulation 10).

(see Diagram 2)

2. COMPLAINT STAGE 2

2.1 If the complainant wishes to have their complaint investigated further they should contact the CIU to request this.

2.2 Consideration of complaints at Stage 2 is normally achieved through an investigation conducted by an investigating officer and an independent person. Stage 2 commences either when the complainant requests it or where the complainant and the local authority have agreed that Stage 1 is not appropriate (regulation 17(1)).

2.3 If the complaint has been submitted orally, the CIU must ensure that the details of the complaint and the complainant's desired outcome are recorded in writing and agreed with the complainant on a complaints handling plan. This may be achieved either by correspondence or by meeting the complainant to discuss, followed by a written record of what was agreed. The CIU may wish to do this in conjunction with the Investigating Officer and Independent Person appointed to conduct Stage 2 (see below). Should the complainant amend the written record of his complaint, the Stage 2 timescale will start from the date that the complaint is finalised.

2.4 The CIU should request that the Children's and Young Peoples Directorate should arrange for a full and considered investigation of the complaint to take place without delay. They may also request (in writing) any person or body to produce information or documents to facilitate investigation, and consideration should be given to matters of disclosure and confidentiality. Consideration of the complaint at Stage 2 should be fair, thorough and transparent with clear and logical outcomes.

2.5 The CIU should ensure that the authority appoints an Investigating Officer (IO) to lead the investigation of the complaint and prepare a written report for adjudication by a senior manager. The IO may be employed by the local authority or be brought in from outside the authority, appointed specifically for this piece of work. The IO should not, however, be in direct line management of the service or person about whom the complaint is being made.

2.6 An Independent Person (IP) must be appointed to the investigation (regulation 17(2)) (see Annex 1 on Definition of Roles). This person should be in addition to the IO and must be involved in all aspects of consideration of the complaint including any discussions in the authority about the action to be taken in relation to the child.

2.7 A copy of the complaint should be sent to any person who is involved in the complaint, unless doing so would prejudice the consideration of the complaint. Where this may be the case, the CIU should advise senior management, who should inform staff of the details of the complaint through normal line management.

2.8 The IO should have access to all relevant records and staff. These should be released within the bounds of normal confidentiality and with regard to relevant legislation in the Freedom of Information Act, 2000 and the Data Protection Act, 1998.

2.9 The investigation should be completed and the response sent to the child or young person from the CIU within 25 working days (regulation 17(3)). However, this may be

impractical in some cases, e.g. where the complaint involves several agencies, all or some of the matters are the subject of a concurrent investigation (such as a disciplinary process), if the complaint is particularly complicated or if a key witness is unavailable for part of the time.

2.10 Where it is not possible to complete the investigation within 25 working days, Stage 2 may be extended to a maximum of 65 working days (regulation 17(6)). All extensions should be agreed by the CIU and communicated to the complainant. The important thing is to maintain dialogue with the complainant and where possible reach a mutual agreement as to what is reasonable where a response in 25 working days is not feasible.

2.11 The CIU must inform the child or young person as soon as possible in writing of:

- the reason for the delay; and
- the date by which he should receive a response (regulation 17(6)).

2.12 Where one or more agencies are involved in considering the complaint, it would be good practice for these bodies to aim for whichever is the shorter of the timescales to produce their final responses.

3 STAGE 2 INVESTIGATION REPORT

3.1 On completion of his consideration of the complaint, the IO should write a report on his investigations including:

- details of findings, conclusions and outcomes are against each point of complaint (i.e. “upheld” or “not upheld”); and
- recommendations on how to remedy any injustice to the complainant as appropriate.

The report should be written in plain language, avoiding jargon, so that everyone can understand it. It should distinguish between fact, feelings and opinion.

Good practice suggests that the IP should also provide a report to the local authority once he has read the IO’s final report. He may wish to comment on:

- whether he thinks the investigation has been conducted entirely in an impartial, comprehensive and effective manner;
- whether all those concerned have been able to express their views fully and fairly;
- whether the IO’s report provides an accurate and complete picture of the investigation; and
- the nature of the recommendations or make his own recommendations as necessary.

(See Diagram 3)

4 THE ADJUDICATION PROCESS

4.1 Once the IO has finished the report, a senior manager should act as Adjudicating Officer

and consider the complaints, the IO's findings, conclusions, and recommendations, any report from the IP and the complainant's desired outcomes.

4.2 The purpose of adjudication is for the local authority to consider the reports and identify:

- its response;
- its decision on each point of complaint; and
- any action to be taken (with timescales for implementation).

4.3 The Adjudicating Officer should normally be a senior manager, reporting to the Director responsible for Children's Services. The Adjudicating Officer will prepare a response to the reports, with his decision on the complaint, actions he will be taking with timescales for implementation – this is the adjudication.

4.4 The Adjudicating Officer may wish to meet the Complaints Manager, IO and IP, to clarify any aspects of the reports. The Adjudicating Officer should also consider liaising with the Complaints Manager in drafting the adjudication.

4.5 The Adjudicating Officer may wish to meet the child or young person as part of the adjudication process or afterwards to explain the details of the adjudication i.e. the outcome of the complaint and any actions that he proposes.

4.6 The CIU should then write to the complainant with their response containing:

- a complete copy of the investigation report;
- any report from the IP; and
- the adjudication.

This response must contain details of the complainant's right to have the complaint submitted to a Review Panel if they are dissatisfied and that the complainant has 20 working days to make this request to the CIU (regulation 17(8)).

4.7 The Adjudicating Officer should ensure that any recommendations contained in the response are implemented. The CIU should monitor implementation and report to the Director on what action has been taken, on a regular basis.

5 STAGE 3 – REVIEW PANELS

5.1 Where Stage 2 of the complaints procedure has been concluded and the complainant is still dissatisfied, they will be eligible to request further consideration of the complaint by a Review Panel (regulation 18). This request should be made to the CIU. As it is not possible to review a complaint that has not yet been fully considered at Stage 2 (including providing the report(s) and adjudication to the complainant), it is essential that the local authority does not unnecessarily delay the conclusion of Stage 2.

5.2 Further consideration of the complaint can include, in a limited number of cases, early referral to the Local Government Ombudsman. Otherwise, the complainant retains the right

to proceed to a Review Panel.

5.3 The CIU will assess requests for the Review Panel as they are presented on a case by case basis. The Complaints Manager should also confer with the Chair, following the Chair's appointment, regarding arrangements for the Panel.

(See Diagram 4)

6 PURPOSE OF REVIEW PANELS

6.1 Review Panels are designed to:

- listen to all parties;
- consider the adequacy of the Stage 2 investigation;
- obtain any further information and advice that may help resolve the complaint to all parties' satisfaction;
- focus on achieving resolution for the complainant by addressing his clearly defined complaints and desired outcomes;
- reach findings on each of the complaints being reviewed;
- make recommendations that provide practical remedies and creative solutions to complex situations;
- support local solutions where the opportunity for resolution between the complainant and the local authority exists;
- to identify any consequent injustice to the complainant where complaints are upheld, and to recommend appropriate redress; and
- recommend any service improvements for action by the authority.

6.2 As a general rule, the Review Panel should not reinvestigate the complaints, nor should it be able to consider any substantively new complaints that have not been first considered at Stage 2.

6.3 Ideally, no party should feel the need to be represented by lawyers at the Review Panel. The purpose of the Panel is to consider the complaint and wherever possible, work towards a resolution. It is not a quasi-judicial process and the presence of lawyers can work against the spirit of openness and problem-solving. However, the complainant has the right to bring a representative to speak on his behalf.

7 GENERAL PRINCIPLES

7.1 The Review Panel should be alert to the importance of providing a demonstrably fair and accessible process for all participants. Many complainants, particularly children and young people, may find this stage to be a stressful experience. It is important that the Panel is customer-focused in its approach to considering the complaint and child or young person-friendly. This may include limiting the total number of local authority representatives attending to a workable minimum to avoid the possibility of overwhelming the complainant.

7.2 In particular, the following principles should be observed for the conduct of the panel:

- The local authority should recognise the independence of the Review Panel and in particular, the authority of the Chair;
- Panels should be conducted in the presence of all the relevant parties with equity of access and representation for the complainant and local authority;
- Panels should uphold a commitment to objectivity, impartiality and fairness, and ensure that the rights of complainants and all other attendees are respected at all times;
- The local authority should consider what provisions to make for complainants, including any special communication or mobility needs or other assistance;
- Panels should observe the requirements of the Human Rights Act 1998, the Data Protection Act 1998, and other relevant rights-based legislation and conventions in the discharge of their duties and responsibilities;
- The standard of proof applied by Panels should be the civil standard of 'balance of probabilities' and not the criminal standard of 'beyond all reasonable doubt.' This standard will be based on evidence and facts; and
- It will be at the Chair's discretion to suspend or defer proceedings in exceptional circumstances where required, including the health and safety of all present.

7.3 The local authority should be mindful of the specific needs of children and young people either using or affected by complaints. Local authorities should ensure that:

- the Review Panel acts in accordance with the United Nations Convention on the Rights of the Child;
- the Review Panel safeguards and promotes the rights and welfare of the child or young person concerned;
- the wishes and feelings of such children and young people are ascertained, recorded and taken into account;
- the best interests of such child or young person are prioritised at all times; and
- where the complaint is made by a person deemed to have a sufficient interest in the child's welfare, they should where appropriate, seek the child or young person's views with regard to the complaint.

8 REDRESS

8.1 Under Section 92 of the Local Government Act 2000, local authorities are empowered to remedy any injustice arising from maladministration. Further details on remedies and redress are discussed in section 6.2.

8.2 The Review Panel must set out its recommendations to the local authority on any strategies that can assist in resolving the complaint. These may include financial compensation or other action within a specified framework to promote resolution.

9 MAKE UP OF THE PANEL

9.1 The Panel must consist of three independent people (regulation 19(2)). Independent means a person who is neither a member nor an officer of the local authority to which the representations have been made, nor the spouse or civil partner of such a person. The Independent Person appointed to Stage 2 may not be a member of the Panel (regulation 19(3)).

9.2 In selecting the Panel the local authority should consider:

- the profile of the local population;
- how best to demonstrate independence of the procedure;
- the needs and circumstances of the individual complainant and the need for specialist skills, knowledge, or awareness regarding the presenting complaint;
- any real or perceived conflict of interest raised by either the substance of the complaint or the Panel process for considering that complaint; and
- due care regarding political sensitivity.

9.3 One member of the Panel should be assigned as Chair of the panel. The Chair's role is described in Annex 1. Good practice suggests that the person appointed as Chair should not have been an officer or a Member of the local authority during the three years preceding the Panel.

9.4 In order that the Chair may contribute to the organisation of the panel, the Complaints Manager should appoint the Chair first – ideally within ten working days of the complainant's request to proceed to Stage 3 – before identifying other panel members.

10 ADMINISTRATION OF THE PANEL

10.1 The local authority will:

- Confirm references, Criminal Records Bureau referrals, confidentiality and disclosure protocols, declarations of interest, and provide other support as required;
- Provide Panellists with a letter of appointment explaining the Review Panel process, their role as a Panellist and describing the expenses and other payment to which they may be entitled. Attention should also be drawn to important issues such as confidentiality;
- Reimburse Investigating Officers, Independent Persons and any other external people involved in the earlier stages for their attendance at the Panel, as appropriate;
- Provide complainants with information on attending the Panel and assistance that they can draw on; and
- Facilitate the administrative support and advisory functions on the day of the Panel.

10.2 The Panel must be held within 30 working days of the receipt of a request for a Review (regulation 19(4)). The local authority should acknowledge the complainant's request for a Review in writing within 2 days of receiving it. The Panel Review should be provided locally and with due regard to the complainant's availability and convenience. The complainant should be notified of the Panel's date and location in writing at least 10 working days before

the Review Panel meets and be invited to attend.

10.3 Panel papers should be sent to panellists and other attendees as soon as these have been agreed by the Chair and no later than ten working days before the date of the Panel. These should normally include: information on Stage 1 (as relevant), the Stage 2 investigation report(s), the local authority's adjudication, any policy, practice or guidance information relevant to the complaint, and any comments that the complainant has submitted to the Panel. The papers should also include information on any local practice around Panels, such as conduct, roles and responsibilities.

10.4 If any other written material is submitted for consideration by the panel outside of these timescales, it will usually be at the Chair's discretion whether it is accepted.

10.5 If any complaint is logged on the day by the complainant about the proceedings, the local authority should record it and the Panel should take a view on the need for further action and should record their decision.

11 ATTENDANCE AT THE PANEL

11.1 The complainant has a right to attend the Panel and should be assisted in attending as appropriate. The complainant should also be informed of his entitlement to be accompanied by another person and for this person to speak on his behalf.

11.2 Those persons involved with the investigation at Stage 2 (e.g. the Investigating Officer, and the Independent Person) should be invited to attend and contribute as relevant to their roles. Should any of these persons' unavailability cause an inordinate delay in holding the Panel; the Chair should take a view on proceeding without them. The local authority can also proceed with the Panel in the complainant's absence at the complainant's request.

11.3 The Adjudicating Officer should attend as the authority's representative if he has rejected any of the Investigating Officers findings at Stage 2. Where he has accepted all of them, it is usually acceptable to delegate this responsibility.

11.4 The Chair should make the final decision on attendees (including asking the local authority to make specific members of staff available to provide specialist advice or opinion). He should also decide whether additional policies or procedures should be circulated with the Panel's papers.

11.5 The Complaints Manager and anyone providing administrative support should also attend the Panel.

12 CONDUCT OF THE PANEL

12.1 The Panel should be conducted as informally as possible, but in a professional manner and in an atmosphere that is accommodating to all attendees. This is particularly important where the complainant might be a child or young person. The need for other support in response to diversity and disability issues should be catered for, including (but not limited to)

provision for sensory impairment, translation and interpretation.

12.2 Panels should normally be structured in three parts: pre-meeting; presentations and deliberation.

12 PRE-MEETING

12.1 This is an opportunity for the Panellists and their administrative support to meet in closed session to discuss the order of business and any other relevant issues (e.g. taking legal advice). No deliberations on the complaint should commence at this meeting.

13 PRESENTATIONS

13.1 Once all attendees are present, the Chair should commence the Review by explaining its purpose and the need for confidentiality. The Chair should advise the complainant of the respective roles and responsibilities of those present and address any questions or concerns that the complainant may have about the process.

13.2 The Chair should ensure that the Panel's focus is on the agreed complaint and the complainant's desired outcomes from the Stage 2 investigation. The purpose of hearing the presentations is to understand each party's opinion of the complaint rather than an opportunity to cross-examine attendees. The Chair should also indicate how long the Panellists anticipate that the presentations should last.

13.3 The full Panel meeting should begin with presentations on the points of complaint and desired outcomes by the complainant and the local authority. Normally, the first presentation should be by the complainant (or advocate/representative) who should be invited to 'talk' to the complaint and expand upon any relevant themes that should aid the Panel's deliberation. The Chair should ensure that this presentation is reasonable and relevant, exercising discretion in limiting its scope, substance or duration.

13.4 Panellists should then have sufficient opportunity to ask questions of all present and seek clarification on the issues being discussed so they are in a position to make recommendations regarding the outcome. The Chair should also invite the complainant, the local authority and other attendees to ask questions and raise points of information and opinion as relevant to the complaint.

14 DELIBERATIONS

14.1 The Panel should then go into closed session to deliberate on their findings and conclusions. The Panel may need administrative support at this stage, but this should not unduly influence the Panel's deliberations and no conflict of interest should arise.

14.2 The Panel is required to produce a written report containing a brief summary of the representations and their recommendations for resolution of the issues (regulation 20(1)). They must send this to the complainant, the local authority, the independent person from Stage 2 and any other person with sufficient interest within 5 working days of the Panel

meeting (regulation 20(2)). The written record should set out simply and clearly a brief summary of the representations; their recommendations for the resolution of the issues and the reasons for them. If a Panellist disagrees with the majority recommendation, this should also be recorded and the reason for it given.

15 AFTER THE PANEL

15.1 The local authority must send its response to the Panel's recommendations via the CIU to the complainant (and other participants as necessary) within 15 days of receiving the Panel's report (regulation 20(3)). The response should be developed by the relevant Director / Director of Children's Services setting out how the local authority will respond to the recommendations and what action will be taken. If the Director deviates from the Panel's recommendations he should demonstrate his reasoning in the response. In developing his response he should invite comment from all the attendees including the Independent Person from Stage 2 (regulation 20(3)).

15.2 The complainant should be advised of his right to refer his complaints (if still dissatisfied) to the Local Government Ombudsman (regulation 20(3)).

15.3 Summary of stage 3 timescales

| Action | Time |
|--|--|
| Complainant requests Review Panel | Up to 20 working days after receipt of the Stage 2 adjudication |
| CIU acknowledges request | Within 2 working days |
| CIU appoints Chair and confirms attendees and content of Panel papers with Chair | Within 10 working days of the complainant's request for Review Panel |
| Local authority agrees the other Panellists and date for Review Panel | Within 30 working days of the complainant's request for Review Panel |
| Local authority circulates Panel papers | Within 10 working days of the date for the Review Panel |
| Review Panel produces its written report (including any recommendations) | Within 5 working days of the Review Panel |
| Relevant Director issues his response | Within 15 working days of receiving the Review Panel's report |

16 WITHDRAWING A COMPLAINT

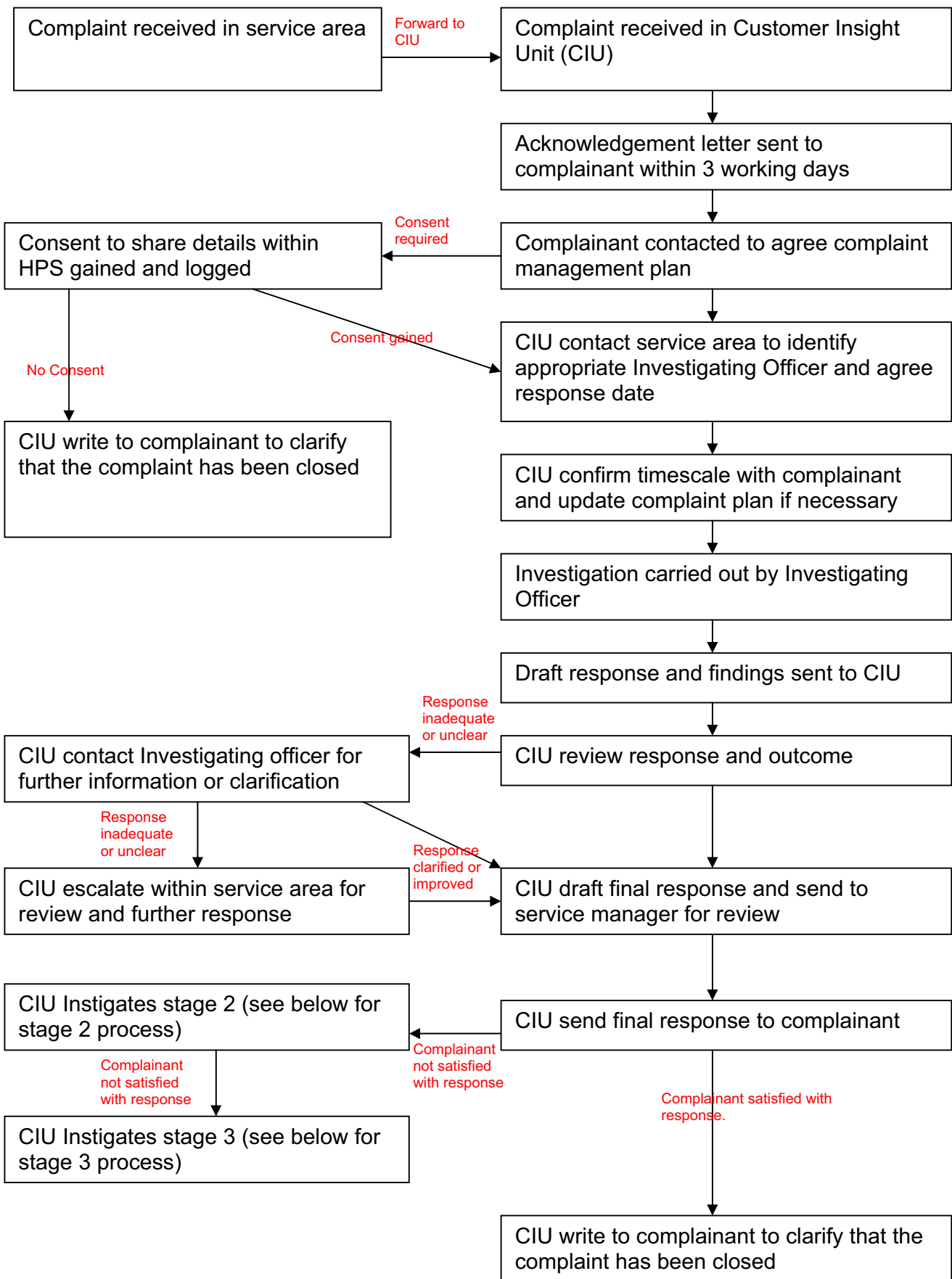
16.1 The complaint may be withdrawn verbally or in writing at any time by the complainant (regulation 7). The CIU must write to the complainant to confirm the withdrawal of the

complaint. In these circumstances, it would also be good practice for the local authority to decide on whether or not it wishes to continue considering the issues that gave rise to the complaint through an internal management review. The local authority should then use this work to consider the need for any subsequent actions in the services it delivers.

16.2 Should the complainant then seek to reinstate the complaint, the local authority could use the review to produce a response as necessary.

Stage 1 process

Diagram 2



Stage 2 process

Diagram 3

