

## SWL ICB Complaints Policy



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Policy Number: SWL-GOV007

	<b>Name</b>	<b>Role and Organisation</b>	<b>Date</b>
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**Approved By** Senior Management Team

**Applies To** South West London Integrated Care Board

SWL ICB Board members, Committee Members and all staff working for, or on behalf of, SWL ICB

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#### Controlled Document

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#### Target Audience

ICB Board Members, Committee Members, all staff dealing with complaints and the public, and, in general terms, all staff working for, or on behalf of, SWL ICB.

#### Brief Description

This policy outlines our framework for, and commitment to, dealing with complaints about the services planned and paid for by NHS South West London Integrated Care Board.

#### Action Required

Ensure that the contents of this Policy are shared at all Team Meetings to ensure a general understanding of complaint processes.

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# 1. Introduction

## 1.1. Introduction

- 1.1.1. This policy outlines our framework for, and commitment to, dealing with complaints about the services planned and paid for by the South West London Integrated Care Board (hereby known as the SWL ICB), Board members, committee and sub-committee members, and employees of SWL ICB (as well as individuals contracted to work on behalf of the group or otherwise providing services or facilities to the group such as those within support services).
- 1.1.2. This policy also provides information about how SWL ICB manages, responds to and learns from complaints made about these services, and the way in which they are planned and paid for. It emphasises the importance of prompt and effective resolution wherever possible, setting out the timeframe for responding to complaints, individuals' roles in the process and the reporting structure for complaints information.

## 1.2. Policy Statement

- 1.2.1. SWL ICB is committed to ensuring that complaints, concerns and issues raised by patients, relatives and carers are acknowledged and responded to in an appropriate and timely manner. Moreover, that SWL ICB learns from these as part of its efforts to improve continually the service it plans and pays for.
- 1.2.2. SWL ICB will ensure that complaints, concerns and issues raised are properly investigated in an unbiased, non-judgmental, transparent, timely and appropriate manner. The outcome of any investigation, along with any resulting actions, will be explained to the complainant.
- 1.2.3. SWL ICB considers any complaint or enquiry about the services it plans and pays for as a vital part of reviewing and, where necessary, improving these. The investigations of complaints should consider what learning there is and what can be disseminated to promote best practice.

## 1.3. Legal, Statutory, Mandatory, and Best Practice Requirements

- 1.3.1. This policy meets the requirements of the *Local Authority Social Services and National Health Service Complaints [England] Regulations 2009*, conforms to the NHS Constitution, and complies with guidance from the NHS England *Guide to good handling of complaints for Clinical Commissioning Groups (2003)*. It also takes account of the principles laid out in the *Parliamentary and Health Service Ombudsman Principles of Good Complaints Handling (2009)*.

## 1.4. Scope

- 1.4.1. This policy applies to the handling of formal complaints, concerns, queries and compliments; including those raised by a Member of Parliament (MP) on behalf of their constituents, relating to services directly planned and paid by SWL ICB.

This would include NHS (not private) primary care such as GPs, dentists, pharmacists and optometrists.

This policy does not apply to Freedom of Information Requests.

- 1.4.2. This policy applies to all individuals working for, or on behalf of SWL ICB, including those employed on permanent or fixed term contracts, interims, self-employed contractors, ICB Board Members, Clinical Leads, Locality Leads, and volunteers.
- 1.4.3. Complaints can be made by a person who is affected by, is likely to be affected by, or is aware of, either through direct experience or observation, an action, omission or decision of SWL ICB.
- 1.4.4. Complaints about services other than those planned and paid for by SWL ICB will be referred to the complaints service of the provider concerned. Where the complaint is in part about a service commissioned by the SWL ICB, the aim should be to provide a single all-encompassing response (See section 4.8.3 and Appendix 3 13.4 Flow Chart).

## 2. Definitions

- 2.1.1. A complaint or concern is an expression of dissatisfaction about an act, omission or decision of SWL ICB, either verbal or written, and whether justified or not, which requires a response and/or redress.
- 2.1.2. Working day means any day except a Saturday, a Sunday and a bank holiday.

## 3. Responsibilities

- 3.1.1. **Director of Corporate Services**
  - Overall accountability for ensuring that the SWL ICB Complaints Policy meets the statutory requirements as set out in the Regulations;
  - Responsible for approving and signing complaint response letters.
- 3.1.2. **Chief of Staff**
  - Responsible for ensuring SWL ICB applies the principles of this policy and that there are suitable resources to support its implementation;
  - Responsible for managing the procedures for handling and considering complaints in accordance with the Regulations and local policy;
  - Ensure that where a complaint may need to be escalated as a Serious Incident that the complaint is discussed and reviewed at the relevant Quality Committee;
  - Ensure information from complaints is reported into appropriate quality and risk committees and forums to enable organisational review and learning.
- 3.1.3. **Complaints and PALS Manager**
  - Responsible for the resolution of complaints and concerns in a timely manner;
  - Responsible for the recording of all relevant detail complaints on a database;
  - Responsible for the promotion and recording of any learning from complaints;
  - Promote the use of complaints procedures as a measure of performance and quality;
  - Promote the use of complaints information to contribute to practice development, and service planning; and
  - Responsible for ensuring that all complaints staff have relevant safeguarding to enable them to identify the key safeguarding concerns.
- 3.1.4. **PALS and Complaints Officer**
  - Facilitation of the resolution of complaints and concerns;
  - Recording details of the complaint on a database; and
  - All complaints staff must have at least Level 2 training in safeguarding to enable them to

- identify the key safeguarding concerns.

### 3.1.5 **Associate Directors/Executive Directors**

- Responsible for investigating and resolving complaints about planned and paid for services in line with this policy, as subject matter experts, drafting responses for the relevant Executive Director to approve.

### 3.1.6 **ICB Board**

- Consider emerging themes and learning from the complaints reporting mechanism and identify service improvements as a result of complaints and concerns being raised.

### 3.1.7 **All Staff**

- All staff have a responsibility to ensure that they are aware of the contents of this policy and have undertaken training as appropriate;
- All individuals working for, or on behalf of the organisation(s) listed within section 1.4 above, including those employed on permanent or fixed term contracts, interims, self-employed contractors, Board Members, Clinical Leads, Locality Leads, and volunteers are responsible for complying with this Policy.

### 3.1.2 **All Line Managers**

- All Line Managers are responsible for ensuring that their teams comply with this Policy.

## 4 **Complaints Policy**

4.1 The following complaints **cannot** be dealt with under this policy:

- 4.1.2 A complaint made by a local authority, NHS body, primary care provider or independent provider;
- 4.1.3 A complaint regarding privately funded treatment;
- 4.1.4 A complaint made by an employee about any matter relating to their employment\*;
- 4.1.5 A complaint which is made orally and resolved to the complainant's satisfaction no later than the next working day;
- 4.1.6 A complaint, the subject matter of which has previously been investigated under the 2009 Regulations or previous Regulations;
- 4.1.7 A complaint which is being or has been investigated by the Ombudsman;
- 4.1.8 A failure to comply with a request for information under the Freedom of Information Act 2000\*\*;
- 4.1.9 A complaint which relates to any scheme established under Section 10 (superannuation of persons engaged in health services) or Section 24 (compensation for loss of office) of the Superannuation Act 1972 or to the administration of those schemes\*\*\*.

\*These complaints will be handled under the ICB's Grievance Policy.

\*\* These complaints are handled by the Information Commissioner's Office.

\*\*\*These complaints are handled by the NHS Pensions Agency.

If the organisation decides that a complaint meets any of the criteria detailed above, the complainant will be notified in writing of this decision and will be signposted to the correct agency or team to deal with their query.

Should a complaint concern issues relating to matter already raised as a Serious Incident, a



Make a Difference Alert or be the subject of a Safeguarding Investigation seek advice on the most appropriate way forward.

## 4.2 Who can make a Complaint?

4.2.1 Any person who receives or has received services planned and paid for by SWL ICB or any person who is affected, or is likely to be affected, by the action, omission or decision of SWL ICB.

4.2.2 A complaint or concern may be made by a person acting on behalf of a patient in any case where that person:

4.2.3 is a child;

In the case of a child under the age of 13, the representative must be a parent, guardian or other adult person who has care of the child. Where the child is in the care of a local authority or a voluntary organisation, the representative must be a person authorised by the local authority or the voluntary organisation, and in the opinion of the Chief Executive, Chief of Staff, Chief Clinical Information Officer or Caldicott Guardian is making the complaint in the best interests of the child;

In the case of a child over the age of 13, consent for the representative to make the complaint on the child's behalf must be obtained and documented;

4.2.4 has died;

In the case of a patient or person affected who has died, the representative must be a relative or other person who had sufficient interest in their welfare and is a suitable person to act as a representative; e.g. documented next of kin, or executor or beneficiary of the will of the person affected.

4.2.5 has physical or mental incapacity;

In the case of a person who is unable by reason of physical capacity, or lacks capacity within the meaning of the *Mental Capacity Act 2005*, to make the complaint themselves, the representative must be a relative or other person who has sufficient interest in their welfare and is a suitable person to act as a representative; e.g. Power of Attorney;

4.2.6 Has been given the complainant's written consent to act on their behalf, or has delegated authority to do so; e.g. Power of Attorney;

4.2.7 Is an MP acting on behalf of and by instruction from a constituent.

## 4.3 Safeguarding and Complaints

4.3.1 SWL ICB takes its safeguarding duties seriously and adheres at all times to the Caldicott Principle number 7: that "The duty to share information can be as important as the duty to protect patient confidentiality". This means that information will be shared where necessary for the safety of a patient or complainant, even if they object to the information to be shared for this use. Please see the SWL ICB Safeguarding Policies for further information;

4.3.2 If a complaint or concern is an allegation or suspicion of abuse for a person over the age of 18 (for example sexual abuse, physical neglect or abuse, or financial abuse) it will immediately be forwarded to the Safeguarding Adults Team at the appropriate London Borough (dependent on where the complainant lives) for an investigation to be undertaken following

the appropriate safeguarding policies and procedures. SWL ICB will review the complaint or concern in line with the Serious Incident policy to determine whether there is a requirement to contact the provider and request that they investigate the concerns as a Serious Incident. SWL ICB will notify the complainant that their concerns will be managed via the safeguarding process.

- 4.3.3 If a complaint or concern is an allegation or suspicion of abuse for a person under the age of 18, for example sexual abuse, physical neglect or abuse, or financial abuse, it will immediately be forwarded to the Children's Safeguarding Team at the appropriate London Borough (dependent on where the complainant lives) for an investigation to be undertaken following the appropriate child protection policies and procedures. SWL ICB will review the complaint or concern in line with the Serious Incident Policy to determine whether there is a requirement to contact the provider and request that they investigate the concerns as a Serious Incident. SWL ICB will notify the complainant that their concerns will be managed via the safeguarding process;
- 4.3.4 In a situation where a person discloses physical or sexual abuse, or criminal or financial misconduct, it will be reported using appropriate policies and procedures. SWL ICB is bound under its duty in the *Health and Social Care Act 2012* to report the disclosure even if the person does not want to make a complaint about the disclosure.
- 4.3.5 In case involving vulnerable adults or children, including threats of self-harm and/or harm to others, all officers will implement effective safeguarding policies and practice, referring to the appropriate safeguarding board;
- 4.3.6 Any allegations of fraud or financial misconduct will be referred to the National Fraud Reporting line at NHS Counter Fraud Authority; details will not be taken by the complaints team and the complaint will not be dealt with by the team. SWL ICB will notify the complainant that their concerns will be managed via NHS fraud processes.

#### **4.4 How a complaint can be made**

- 4.4.1 If a person has concerns relating to a service directly commissioned by the SWL ICB they have the right to raise a formal complaint with either the service provider or SWL ICB.
- 4.4.2** A complaint or concern can be made by email, by post or verbally. Where the complaint is made verbally a written record of it will be made and provided to the complainant. **(See Appendix 3 3.1.4 Flow Chart)**

The contact details for making a complaint are as follows:

- By Email [contactus@swlondon.nhs.uk](mailto:contactus@swlondon.nhs.uk)
- By Telephone 0800 026 6082
- By Post 120 The Broadway, Wimbledon, London SW19 1RH

#### **4.5 Advocacy Services**

- 4.5.1 Since April 2013, local authorities have a statutory duty to commission independent advocacy services to provide support for people making, or thinking of making, a complaint about their NHS care or treatment. Arrangements will vary between local authority areas. Complainants are advised to directly contact their local Healthwatch, or their local authority, for information about how this service is provided in their area.

## 4.6 Timescales for raising a complaint

- 4.6.1 Complaints should be made within twelve months from either the date of the event giving rise to the complaint, or from the person becoming aware that they may have cause for complaint.
- 4.6.2 If there are good reasons for not having made the complaint within the above time frame and, if it is still possible to investigate the complaint effectively and fairly, SWL ICB will consider reviewing the complaint.

## 4.7 Confidentiality and Consent

- 4.7.1 Complaints will be handled in the strictest confidence. Care will be taken that information is only disclosed to those who have a demonstrable need to have access to it.
- 4.7.2 SWL ICB is required to maintain an appropriate level of confidentiality with all sensitive data it holds and uses, in adherence to both data protection legislation and the common law duty of confidentiality. This includes the requirement to ensure that confidential data is shared only where there is a legal basis to do so and where it is absolutely necessary. The lawful basis for processing complaints is:
  - 4.7.2.1 UK GDPR Article 6(1)(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.
  - 4.7.2.2 Article 9(2)(g) processing is necessary for reasons of substantial public interest, [...] and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.
- 4.7.3 It may be necessary to obtain consent before a formal complaint can be take forward. Such consent can be for either/both the following purposes:
  - Consent to raise a complaint on behalf of another person – where appropriate the complaint should provide proof of consent from the person on whose behalf they are complaining. (see section 4.2 for further advice)
  - Consent to share details of complaint (inc. patient identifiable data) with other appropriate bodies outside of SWL ICB that are relevant to its investigation - where appropriate the complaint should provide proof of consent from the person on whose behalf they are complaining. (see section 4.2 for further advice)
- 4.7.4 For circumstances in which information disclosure is in the best interests for the patient, or the protection, safety or wellbeing of a child or vulnerable adult (see paragraph 4.3.1 above), information will be escalated as necessary in line with safeguarding policies and procedures, as outlined in section 4.3 of this policy.
- 4.7.5 Information given to SWL ICB for the purpose of investigating a complaint will be retained, securely and electronically, by SWL ICB and only used to investigate the complaint. Only the Complaints Officer, PALS and Complaints Manager, and the staff responsible for the area / service the complaint is about, will have access to any information provided for the purpose of making a complaint;
- 4.7.6 SWL ICB may have to look into medical records or other documentation in order to resolve the complaint. However, this would only be done after appropriate consent had been obtained or the information has been provided by the person making the complaint. Furthermore, such information would not be kept in the complaint record, unless it is

4.7.7 Once a complaint is resolved, the information held by the SWL ICB is securely stored and, eventually, securely destroyed in accordance with the retention schedule from the NHS Records Management Code of Practice 2021: this states that complaints files must be retained for 10 years from the date of the resolution of the complaint. After this time, the file will be reviewed and, if no longer needed, securely destroyed.

## 4.8 Investigation and Organisational Response

All complaints will be acknowledged no later than three working days after the day the complaint is received (either by telephone, email or letter) and include a description of the complaints process and the timeframe and address any issues of consent.

4.8.1 SWL ICB will investigate a complaint in a manner appropriate to resolve it as speedily and efficiently as possible;

4.8.2 The complainant can expect that SWL ICB will:

- Undertake to investigate the complaint;
- Keep the complainant informed of the progress of the investigation;
- Provide a response that is written in plain English, summarises the complainant's concerns, appropriately answers each concern and shows the evidence considered when writing the response;
- Provide assurance that the matter has been investigated and action has been taken to prevent a recurrence;
- Inform the complainant of any actions that will be taken as a result of the complaint and of the lessons learnt; and
- Make a remedy where appropriate.
- Provide information of options should the complainant remain dissatisfied, including the complainant's right to take their complaint to the Parliamentary and Health Service Ombudsman (PHSO).

A response to a complaint must:

- Include an explanation of how the complaints has been considered and who has been involved in the investigation.
- Provide a meaningful apology where it is due.
- Refer to any records, documents or guidelines that have been considered.
- Explain and evidence how a decision was reached.
- Where appropriate, tell the complainant what has been done to put things right.
- Signpost the complainant to the next steps, including details of the Parliamentary and Health Service Ombudsman.

**NOTE:** all responses must be drafted using the standard response template and be approved by the appropriate Executive Director before submission for formal sign off.

**(See Appendix 3 3.1.9 for Response Template)**

- 4.8.3 Where a complaint involves more than one NHS or social care body, the aim should be, wherever possible, to provide the complainant with a single response addressing all concerns raised with all the relevant bodies.

To facilitate this it will be necessary, via discussions with the other bodies, to decide which body will coordinate the response to the complaint and communicate directly with the complainant;

This may be decided by either of the following ways:

- **Numerically:** if the majority of the issues raised by the complaint lie clearly with one body
- **Nature of issues raised:** in a complaint where a number of secondary issues lies with Body A but the single primary issue lies with Body B it may be more appropriate for Body B to lead.

Should it remain unclear as to which body should lead, SWL ICB will do so.

#### **Important issues to consider when dealing with such complaints**

- The agreed approach should be communicated clearly to the complainant and should they prefer that each body involved investigates and responds individually, this preference should be honoured.
- Whilst every effort should be made to respond within the agreed timescale, multi-body complaints may require more time than usual to ensure that an appropriate comprehensive response is provided. Should a longer timescale be needed this should, ideally, be communicated to the complainant at the outset. If it becomes apparent at a later stage of the process that further time will be required this should be communicated to the complainant and a revised timescale agreed.

**A flowchart detailing the process used for such complaints can be found at Appendix 3 3.1.4.**

### **4.9 Timescales for responding to Complaints (and MP Correspondence and PALS Enquiries)**

Every effort should be made to provide an appropriate response to Complaints (and MP Correspondence and PALS Enquiries) within the following guidelines:

- **Response to Formal Complaint** – every effort will be made to provide a response within 25 working days of receipt of complaint. **(See Appendix 3 3.1.1 for Complaints Process flow chart) Note: All complaints must be responded to within 40 working days of receipt.**
- **Response to PALS Enquiry** - should be made with 15 working days of receipt of complaint. **(See Appendix 3 3.1.2 for PALS Process flow chart)**
- **Response to MP Correspondence** - should be made with 10 working days of receipt of complaint. **(See Appendix 3 3.1.3 for MP correspondence Process flow chart)**

### **4.10 Referrals to the Parliamentary and Health Service Ombudsman (PHSO)**

4.10.1 If a complainant remains dissatisfied with the handling of the complaint by SWL ICB they can

ask the PHSO to review the case;

4.10.2 When informed that a complainant has approached the PHSO, the ICB will cooperate fully with the PHSO and provide all information that has been requested in relation to the complaint investigation.

#### **4.11 Policy Implementation Plan**

4.11.2 SWL ICB will ensure that all employees are aware of the existence of this policy. The following will be undertaken to ensure awareness:

- Annual reminder of the existence and importance of the policy via internal communication methods.
- Publication on the ICB's website and intranet site.

#### **4.12 Monitoring Compliance and Effectiveness of the Policy**

4.12.1 An annual report will be produced for the Quality, Performance and Oversight Committee which will include:

- Number of complaints received
- Number of complaints received considered to be based on solid evidence or good reasons (complaints upheld)
- Issues, key themes and lessons learnt
- Actions taken, or being taken, to improve services as a result of complaints made
- Number of cases which SWL ICB has been advised are being considered by or referred to the PHSO
- Equality impact data.
- Monthly reports will be produced for SMT.

#### **4.13 Persistent and/ or unreasonable complaints**

4.13.1 Detailed guidance on the management of persistent and/ or unreasonable complaints is set out in **Appendix 2**.

## **5 Review of this Policy**

5.1.1 This policy will be reviewed initially after one year, then every three years thereafter, or as and when there are changes to national legislation or local policy. Amended versions of this policy will be signed off by the Quality, Performance and Oversight Committee, and will then go to the SWL ICB Board for note.

## 6 Internal and External References

### 6.1 Internal References

- SWL ICB Confidentiality Policy;
- SWL ICB Information Governance Policies;
- SWL ICB Safeguarding Children Policy;
- SWL ICB Safeguarding Adults Policy;
- SWL ICB Serious Incident Policy;
- SWL ICB Grievance Policy.

### 6.2 External References

- *Local Authority Social Services and National Health Service Complaints [England]Regulations* (2009)
- *NHS Constitution*
- *Guide to good handling of complaints for Clinical Commissioning Groups* (2003) NHS England
- *Complaints Policy* (2017) NHS England
- *Parliamentary and Health Service Ombudsman Principles of Good Complaints Handling* (2009) PHSO
- *NHS Records Management Code of Practice 2021*Health and Social Care Act (2012)

## 7 Monitoring

Implementation of this policy will be monitored annually, and a report submitted to the Quality, Performance and Oversight Committee.

If you have any suggestions for the improvement of this policy, please contact the Chief of Staff with your suggestions, for consideration.

## 8 Equality Impact Assessment

An Equality Impact Assessment has been completed for this policy (Appendix 1), and no negative impact upon persons with protected characteristics has been identified.

## 9 History

Policy Number	Effective Date	Significant Changes
SWL/GOV/007	01/07/2023	Policy Creation

## Appendix 1 - Equality Impact Assessment

Mandatory Questions	Yes/No/NA	Comments
1. Does the Policy affect any group less or more favourably than another on the basis of:		
Age?	No	
Disability?	No	
Gender?	No	
Gender identity?	No	
Marriage or civil partnership?	No	
Pregnancy and maternity or paternity?	No	
Race?	No	
Religion or belief?	No	
Sexual orientation?	No	
2. Is there any evidence that any groups are affected differently by the Policy and if so, what is the evidence?	No	
3. Is any impact of the Policy likely to be negative?	No	
4. If any impact of the Policy is likely to be negative, can the impact be avoided and if so, how?	NA	
5. If a negative impact can't be avoided, what, if any, are the reasons the Policy should continue in its current form?	NA	
6. Where relevant, does the Policy support the FRED A principles: Fairness, Respect, Equality, Dignity and Autonomy?	Yes	

If you have identified a potential discriminatory impact of this Policy, please contact the Director of Corporate Services.



## Appendix 2 - Guidance for dealing with unreasonable complainants

This guidance covers all contacts, enquiries and complaints. It is intended for use as a last resort and after all reasonable measures have been taken to try and resolve a complaint using SWL ICB's Complaints Policy.

Persistent complainants may have genuine issues and it is therefore important to ensure that this process is fair and that the complainant's interests have been taken into consideration.

### 1. Purpose of guidance

To assist SWL ICB staff to identify when a person is unreasonable, setting out the action to be taken.

### 2. Definition of unreasonable complainants

There is no one single feature of unreasonable behaviour. Examples of behaviour may include those who:

- Persist in pursuing a complaint when the procedures have been fully and properly implemented and exhausted;
- Do not clearly identify the precise issues that they wish to be investigated, despite reasonable efforts by staff, and where appropriate, the relevant independent advocacy services;
- Continually make unreasonable or excessive demands in terms of process and fail to accept that these may be unreasonable e.g. insist on responses to complaints being provided more urgently than is reasonable or is recognised practice;
- Continue to focus on a 'trivial' matter to an extent that it is out of proportion to its significance. It is recognised that defining 'trivial' is subjective and careful judgment must be applied and recorded;
- Change the substance of a complaint or seek to prolong contact by continually raising further issues in relation to the original complaint. Care must be taken not to discard new issues that are significantly different from the original issue. Each issue of concern may need to be addressed separately;
- Consume a disproportionate amount of time and resources;
- Threaten or use actual physical violence towards staff;
- Have harassed or been personally abusive or verbally aggressive on more than one occasion (this includes written abuse e.g. emails);
- Repeatedly focus on conspiracy theories and/or will not accept documented evidence as being factual;
- Make excessive telephone calls or send excessive numbers of emails or letters to staff.

### 3. Actions prior to designating a complainant as unreasonable

It is important to ensure that the details of a complaint are not lost because of the presentation of that complaint. There are a number of considerations to bear in mind when considering imposing restrictions upon a complainant. These may include:

- Ensuring the complainant's case is being, or has been, dealt with appropriately, and that reasonable actions will follow, or have followed, the final response;
- Confidence that the complainant has been kept up to date and that communication has been adequate with the complainant, prior to them becoming unreasonable;
- Checking that new or significant concerns are not being raised, that require consideration as a separate case;
- Applying criteria with care, fairness and due consideration for the client's circumstances – bearing in mind that physical or mental health conditions may explain difficult behaviour. This should include the impact of bereavement, loss or significant/sudden changes to the complainant's lifestyle, quality of life or life expectancy;
- Considering the proportionality and appropriateness of the proposed restriction in comparison with the behaviour, and the impact upon staff;
- Ensuring that the complainant has been advised of the existence of the policy and has been warned about and given a chance to amend their behaviour.

Consideration should also be given as to whether any further action can be taken prior to designating the complainant unreasonable or persistent. This might include:

- Raising the issue with a Director with no previous involvement, in order to give an independent view;
- Where no meeting with staff has been held, consider offering this at a local level as a means to dispel misunderstandings (only appropriate where risks have been assessed);
- Where multiple departments are being contacted by the complainant, consider a strategy to agree a cross-departmental approach;
- Consider whether the assistance of an advocate may be helpful.

#### **4. Process for managing unreasonable behaviour**

Where a complainant has been identified as unreasonable, the decision to declare them as such is made by the Chief Executive who will write to the complainant, informing them that either:

- Their complaint is being investigated and a response will be prepared and issued as soon as possible within the timescales agreed;
- That repeated calls regarding the complaint in question are not acceptable and will be terminated, or;
- Their complaint has been responded to as fully as possible and there is nothing to be added
- That any further correspondence regarding the complaint in question will not be acknowledged.

All appropriate staff should be informed of the decision so that there is a consistent and coordinated approach across the organisation.

If the declared complainant raises any new issues then they should be dealt with in the usual way.

Review of the persistent status should take place at six monthly intervals.

## **5. Urgent or extreme cases of unreasonable or persistent behaviour**

In urgent or extreme cases:

- Adopt safeguarding and zero tolerance policies and procedures;
- Discuss the case with the appropriate Director to develop an action plan.

In these circumstances, carry out a review of the case at the first opportunity after the event.

## **6. Record keeping**

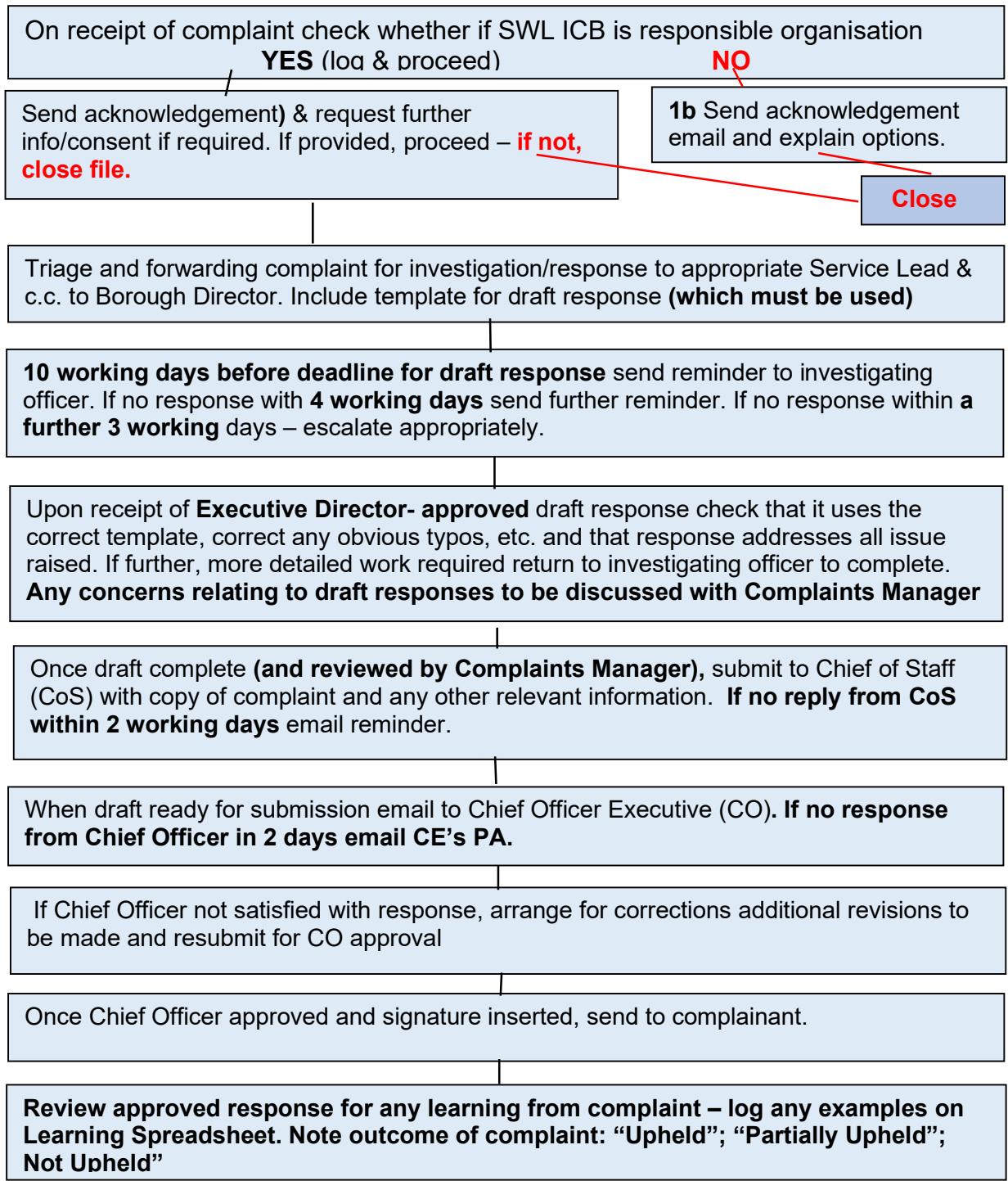
Ensure that adequate records are kept of all contact with unreasonable complainants.

Consideration should be given as to whether the organisation should take further action, such as reporting the matter to the police, taking legal action, or using the risk management or health and safety procedures to follow up such an event in respect of the impact upon staff.

## Appendix 3 - SWL ICB Complaints Process

- 3.1. Flow Chart of Formal Complaints Process
- 3.2 Flow Chart of PALS Enquiries Process
- 3.3 Flow Chart of MP Correspondence Process
- 3.4 Flow Chart of Formal Complaints involving Multiple Organisations Process
- 3.5 Flow Chart of Formal Complaints made verbally
- 3.6 Flow Chart of Planned and Paid for Services Complaints Process (where external provider involved) – inc. cover letter template (Query – now redundant?)
- 3.7 Acknowledgement Letter Template
- 3.8 Email for forwarding complaint for investigation/Response
- 3.9 Formal Response Letter Template

### 3.1 SWL ICB Process for Formal Complaints



**NOTE: this represents a basic summary of the Formal Complaints Process – further details contained within the Complaints Policy**

**KEY TIMESCALES**

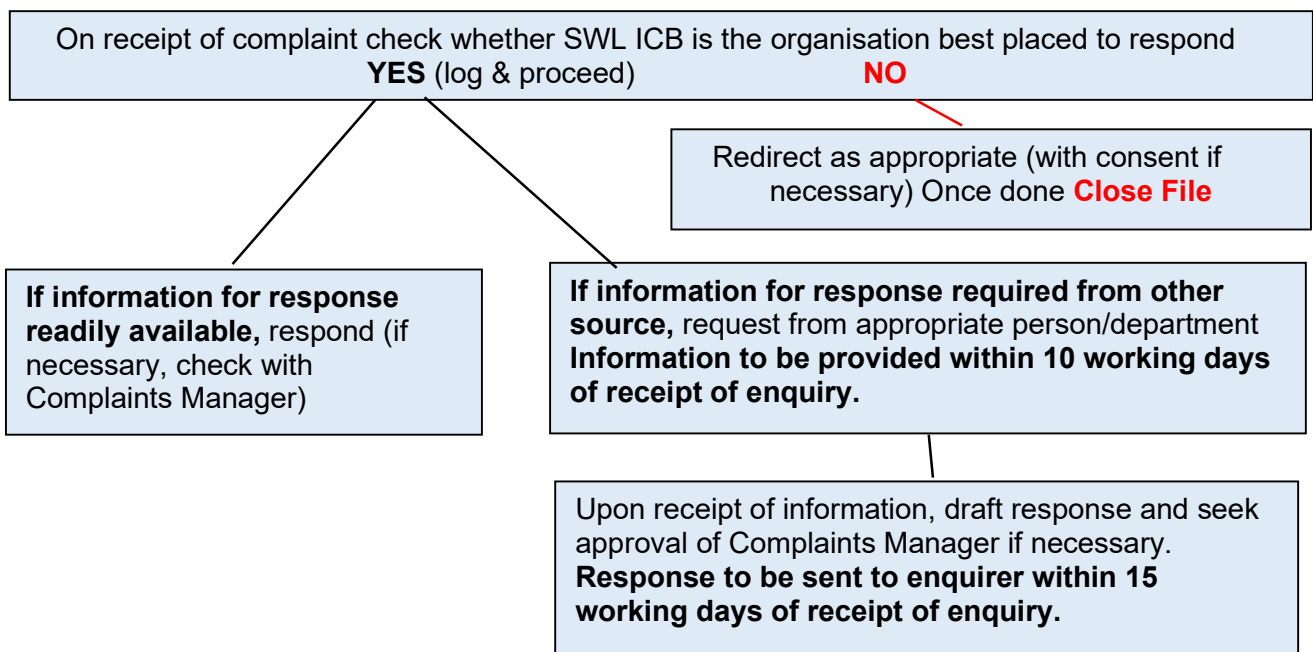
**Executive Director- approved draft response received – 18 working days from receipt of complaint.**

**Final, signed off response to complainant - 25 working days from receipt of complaint.**

### 3.2 SWL ICB Process for Patient Advice & Liaison Service (PALS) Enquiries

- PALS enquiries may, whenever possible, be resolved informally and as quickly as possible.
- This may be done verbally or via email.
- If the response to an enquiry is solely verified information this can be done without approval (if unclear – check with Complaints Manager)
- All PALS enquiries must be logged

#### PALS Enquiries received via email



**NOTE: this represents a basic summary of the PALS Enquiry Process – further details contained within the Complaints Policy.**

**The method of response to PALS Enquiries (received via email, verbally or formal letter) may vary on how received and subject matter of enquiry. To be discussed with Complaints Manager if unclear.**

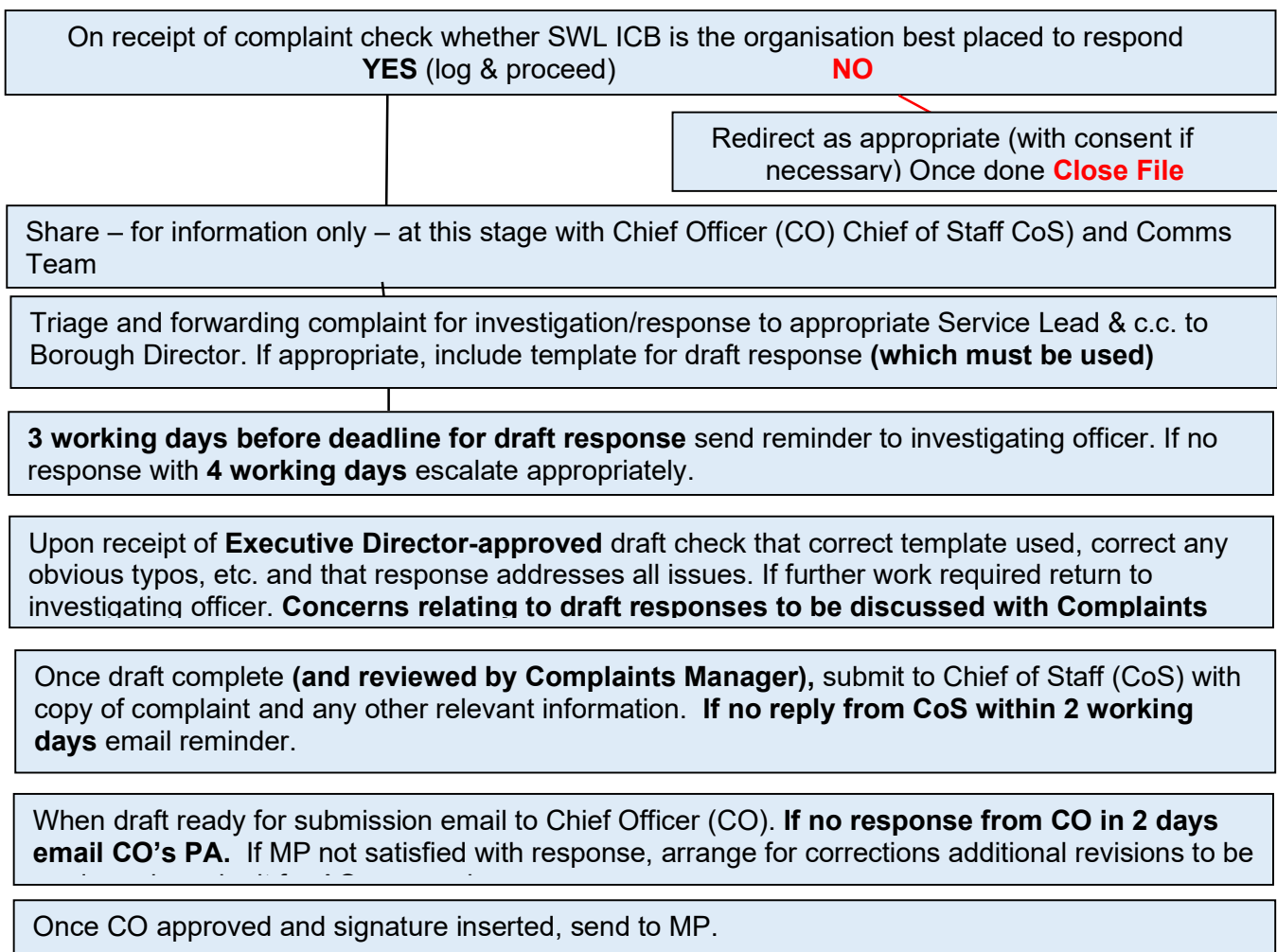
#### KEY TIMESCALES

**Director-approved draft response (if required) received – 10 working days from receipt of enquiry.  
Response sent to enquirer – 15 working days from receipt of enquiry.**

### 3.3 SWL ICB Process for MP Correspondence

MP correspondence will usually be one of the following:

- An enquiry made on behalf of specific constituent.
- A general enquiry regarding NHS services. This can be done without approval (if unclear – check with Complaints Manager)
- A formal complaint made on behalf of specific constituent - in such instance the process for formal complaints is followed.
- All MP correspondence must be logged.



The method of response to MP correspondence (via email or formal letter) may vary on how received and subject matter of enquiry. Discuss with Complaint Manager if unclear.

#### KEY TIMESCALES

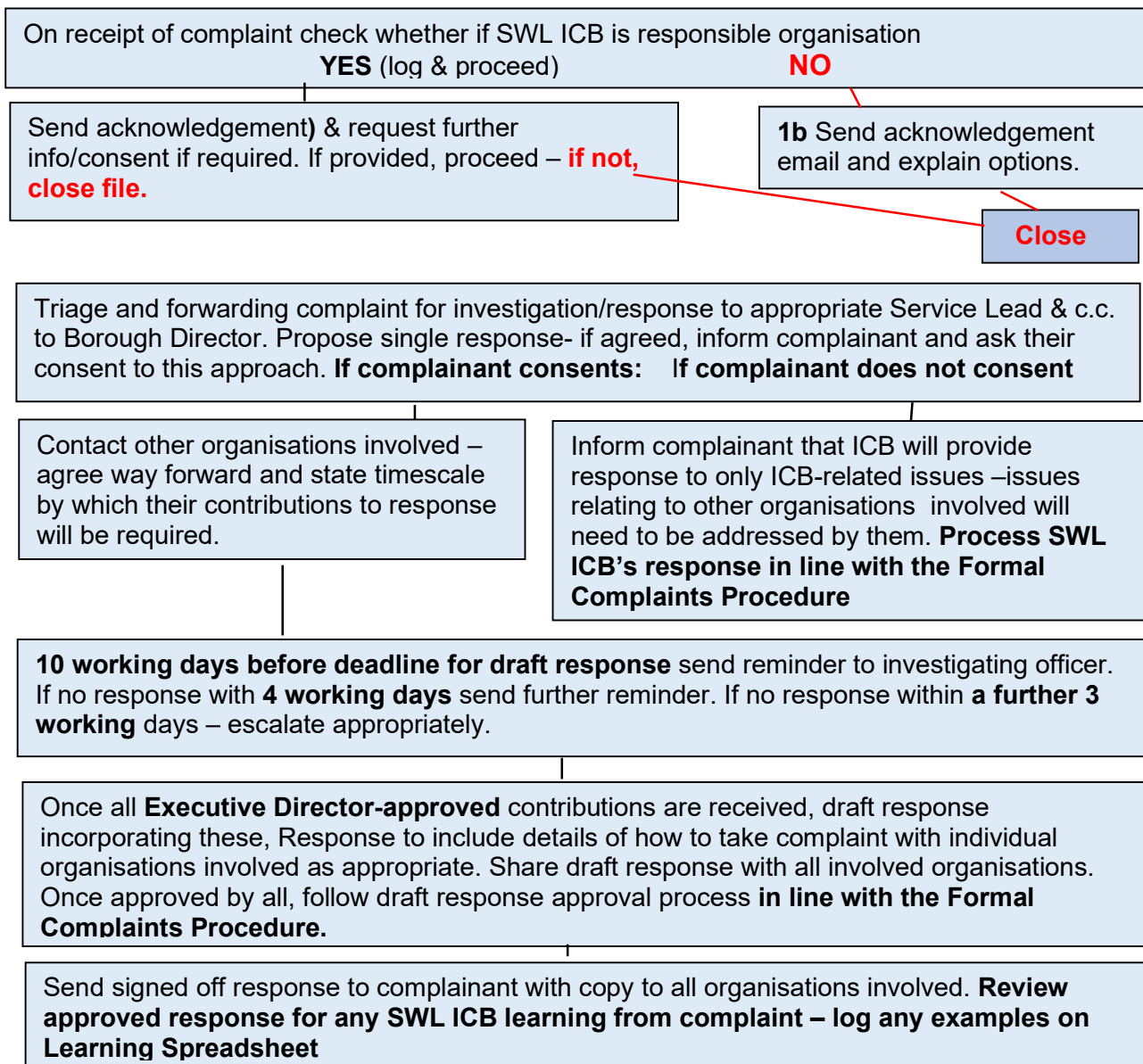
**Executive Director-approved draft response (if required) received – 5 working days from receipt of enquiry.**

**Response sent to MP – 10 working days from receipt of enquiry.**

### 3.4 SWL ICB Process for Formal Complaints involving Multiple Organisations

Where a complaint involves more than one NHS or social care body, the aim should be, whenever possible, to provide a single response addressing all concerns raised with all the relevant bodies. To facilitate this it will be necessary, via discussions with the other bodies, to decide which body will coordinate the response to the complaint and communicate directly with the complainant.

The following process applies to complaints where SWL ICB is the lead organisation.



**NOTE: this represents a basic summary of Multiple Organisations complaint Process – further details contained within the Complaints Policy (Point 4.8.3)**

#### **KEY TIMESCALES**

**Director-approved draft response (if required) received – 18 working days from receipt of complaint.  
Response sent to enquirer – 25 working days from receipt of enquiry.**



### 3.5 Process for Formal Complaints made Verbally

Should a complainant wish to raise their complaint solely by verbal means the following process should be followed

Note: The taking of a verbal complaint may be a lengthy process so the following should be taken into account:

- That sufficient time is allowed for the conversation with the complainant (at least 1 hour)
- That the start date of the complaint process (the 25 working days timeframe) will be from when a statement of complaint has been agreed with complainant

Any initial conversation with the complainant should include the following:

- An explanation of the complaints process (inc. timeframe and consent (if appropriate).
- The gathering of the following information:  
Details of complainant and, if appropriate of the person they are complaining on behalf of.
- Details of complaint

The officer taking the verbal complaint should make notes of the conversation.

These notes should then be transcribed to form a draft Statement of Complaint and include the date of the initial conversation and the of the officer.

This draft Statement is then shared with the complainant and any comments/amendments made by the complainant incorporated into a further draft which is again shared with the complainant. This continues until the Statement of Complaint is agreed by complainant.

Once the Statement of Complaint is agreed the standard process for Formal Complaints is followed.

### 3.6 Process for Complaints involving Planned and Paid for Services (External Provider)

In certain areas the ICB pays a provider (an appropriate NHS organisation) to provide the service on its behalf.

When such a complaint is received the relevant SWL ICB Service Lead/Director should request an investigation by the external provider and a formal response which can be shared with the complainant.

Following receipt of a commissioned service, the Complaints Team will log, assign a reference no, and address any issues of consent.

Complaint is then forwarded to the relevant ICB Team (to Service Lead, c.c to Borough Director) to facilitate its investigation and response. When forwarding, the Complaints Team will state the relevant dates for the timeframe:

Should there be any **issues relating solely to the SWL ICB** these will be picked up by the relevant ICB service, investigated and a respond in line with the formal complaints process.

Where the **complaint relates solely to a service that is to be provided on behalf of the SWL ICB**, the relevant ICB Service will forward the complaint to the Provider.

The relevant SWL ICB Service will request of the Provider that:

- An investigation is undertaken and a response, showing its findings and any intended actions arising from these, is drafted.
- Such a response to be on the Provider's headed paper and signed by an appropriate senior member of Provider's staff.

**The relevant SWL ICB Service is responsible for ensuring Provider's draft meets the deadline**

Once the Relevant SWL ICB Lead is assured that the response addresses adequately the issues raised by the complaint (**inc. approval by appropriate SWL ICB**), the approved response to be forwarded to SWL ICB's Complaints Team who will draft a cover letter (see overpage) to be sent from the Chief Officer) with the provider's response attached.

#### **KEY TIMESCALES**

**Director-approved draft response (if required) received – 18 working days from receipt of complaint.  
Response sent to enquirer – 25 working days from receipt of enquiry.**

### 3.6a Template: cover letter to be sent with response from commissioned Provider

DATE

Our Ref:

To:

Sent via email:

Dear,

I am writing to you in my position as Chief Executive of NHS South West London Integrated Care Board.

This response is in reply to your complaint of **Date**, from which I note the concerns you are raising regarding **General description of complaint (e.g, CHC Assessment process)**

**Optional: I am sorry for the lengthy delay in providing a response to your complaint and my apologies for any distress or inconvenience this delay may have caused.**

Turning now to your specific concerns, which I understand to be:

#### **List Concerns**

The **SERVICE** is provided, on behalf of SWL ICB by **PROVIDER** and so we requested that **PROVIDER** provide a response to the concerns you have raised. A copy of this response is attached.

This has been reviewed by **SWL ICB EXECUTIVE DIRECTOR WHO APPROVED RESPONSE**

I am assured that the response addresses the concerns you have raised in your complaint.

Should you have any remaining concerns these should be raised directly with **PROVIDER and contact details.**

Should you remain dissatisfied, you have the right to have your complaint considered by the Parliamentary and Health Service Ombudsman (PHSO) for an independent review of your case. Your request should be made within twelve months of your complaint. You can contact the PHSO using the details below:

Parliamentary and Health Service Ombudsman Health Service Ombudsman

Millbank Tower, Millbank, London, SW1P 4QP

Telephone Helpline no. 0345 015 4033 Email: [phso.enquiries@ombudsman.org.uk](mailto:phso.enquiries@ombudsman.org.uk)

I would like to take this opportunity to thank you for bringing your concerns to our attention. SWL ICB considers any complaint or enquiry about the services it commissions as a vital part of reviewing and, where necessary, improving these.

Yours sincerely,

## 3.7 Template acknowledgement of enquiry/complaint & request for consent

Your Ref:

Our Ref:

To:

Sent via email:

Dear,

Thank you for your email of **DATE** from which I note your concerns following your regarding **brief description of concerns/enquiries.**

### **For a Complaint**

SWL ICB will undertake an investigation of the concerns raised and respond formally, in writing, with details of the findings of the investigation and actions that SWL ICB will be taking as a result of these.

SWL ICB aims to respond to complaints with twenty-five working days of their receipt. In this instance, that should mean that you receive a response by **Relevant Date.** Should this not prove possible, we will inform you and a revised date will be agreed.

### **For an Enquiry**

SWL ICB will make enquiries into the issues you have raised and respond in due course.

### **For both**

It is sometimes necessary to make enquiries outside of SWL ICB, with other relevant NHS organisations. However, we would only do this with your consent.

Would you be happy, should it be necessary to do so with your complaint/enquiry, to give your consent to this? If not, please let us know as soon as possible to [contactus@swlondon.nhs.uk](mailto:contactus@swlondon.nhs.uk)

### **Following paragraphs to be used if person is enquiring/complaining on behalf of another person.**

As you are raising these concerns on behalf of another person we will also need their consent to you acting on their behalf; this can also be provided via email to the above address. Consent will not be necessary in the following circumstances:

- The person you are acting on behalf of now deceased.
- The person you are acting on behalf of is unable to raise their concerns themselves and you have power of attorney to act on their behalf.

I hope this information will be of help to you.

Regards,

### 3.8 Template Email for requesting investigation of complaint/enquiry

To: Investigating Officer

C.C Relevant Director

Subject Box: Formal Complaint/MP Enquiry – SWL ICB Ref: \_\_\_\_\_ (please quote this ref. in all further correspondence)

Dear,

Please see attached a formal complaint received by SWL ICB.

The issues raised by this complaint will need to be investigated and a formal response drafted - see attached response template **which must be used.**

A draft response – **approved by your Executive Director** (add name of relevant Executive Director - will need to be submitted to the Complaints Team by \_\_\_\_\_ \_ (18 working days from receipt.)

Should your investigation require making enquiries outside of SWL ICB please inform the Complaints Team before doing so.

**If you are not the appropriate person to investigate this complaint please let us know as soon as possible.**

Regards,

## Appendix 3.9 Template formal response to Complaint

Your Ref:

Our Ref:

To:

Sent via email:

Dear,

I am writing to you in my position as Chief Executive

This response is in reply to your email of **date**. **My apologies for the delay in my replying and for any distress or inconvenience this may have caused - if applicable**

I note your concerns regarding General subject of complaint. Specifically:

**List issues raised as individual bullet points:**

I requested an investigation into the concerns raised and this was undertaken by **Name of investigating officer**. This is now complete and its findings have been reviewed by **Name of appropriate Executive Director**. Accordingly, I am now able to respond as follows.

**Response should:**

- **Reflect concerns as listed above.**
- **Details actions to be taken/already taken as a result of the investigation – see suggested text below.**

As a result of our investigation, and the learning we have taken from your Complaint, SWL ICB will be taking the following actions: **these can be specific to the complaint (e.g. addressing training issues of a member of staff); or of a wider, more general nature (e.g. reviewing a Team's working practices) List brief details as bullet points.**

I hope I have been able to assure you that your concerns have been heard and received a full and thorough investigation. However, if you are dissatisfied with this response you should, in the first instance, contact the Complaints and Patient Information Service at [contactus@swlondon.nhs.uk](mailto:contactus@swlondon.nhs.uk) or on 0800 026 6082.

Should you remain dissatisfied, you have the right to have your complaint considered by the Parliamentary and Health Service Ombudsman (PHSO) for an independent review of your

case. Your request should be made within twelve months of your complaint. You can contact the PHSO using the details below:

Parliamentary and Health Service Ombudsman  
Health Service Ombudsman for England  
Millbank Tower, Millbank  
London, SW1P 4QP  
Telephone Helpline no. 0345 015 4033  
Email: [phso.enquiries@ombudsman.org.uk](mailto:phso.enquiries@ombudsman.org.uk)  
Website: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

Thank you for making us aware of your concerns. SWL ICB considers any complaint or enquiry about the services it plans and pays for as a vital part of reviewing and, where necessary, improving these.

Yours sincerely,

Chief Officer