



Public Complaints

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Note: By signing the above you are authorising the policy for publication and are accepting accountability for the policy on behalf of the Chief Constables.

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Legal Basis

Legislation specific to the subject of this policy document

Section	Act (title and year)
	Police Reform Act 2002
	Police Reform & Social Responsibility Act 2011
	Police (Conduct) Regulations 2012
	Police (Performance) Regulations 2012
	Police & Criminal Evidence Act 1984
	IOPC Statutory Guidance

Other legislation which you must check this document against (required by law)

Act (title and year)
Human Rights Act 1998 (in particular A.14 – Prohibition of discrimination)
Equality Act 2010
Crime and Disorder Act 1998
Health and Safety at Work etc. Act 1974 and associated Regulations
General Data Protection Regulation (GDPR) and Data Protection Act 2018
Freedom Of Information Act 2000
The Civil Contingencies Act 2004

Other Related Documents

- Misconduct (Police Officers) Policy
- Disciplinary (Police Staff) Policy
- Unsatisfactory Performance Procedure (UPP)
- Grievance (Fairness at Work) Policy

1. Introduction

- 1.1 The Police Reform Act 2002 provides the statutory framework for the police complaints system.
- 1.2 Chief Constables have a duty under the Police Reform Act 2002 to record complaints, conduct matters and Death and Serious Injury (DSI) matters that fall within the Act and for which they are the appropriate authority.
- 1.3 This policy sets out Norfolk and Suffolk Constabularies' process for handling complaints of police personnel from the public.
- 1.4 In addition, joint working between Norfolk Constabulary and Cambridgeshire Constabulary in respect of the Kings Lynn Police Investigation Centre (PIC) could result in complaints being made about Cambridgeshire officers and/or staff to Norfolk officers and/or staff. Occasionally Joint Working at Kings Lynn PIC will also include Suffolk officers and staff. Therefore, this policy also sets out the processes to be followed in all of these circumstances.

2. Ethos

- 2.1 Norfolk and Suffolk Constabularies have a duty to proportionately investigate all complaints made, ensuring there is balance between the limited resources the Force has and the needs of the complainants.
- 2.2 This policy examines; what a public complaint is, the recording of a public complaint, service recovery matters, how a matter will be investigated and if a referral should be made to the Independent Office for Police Conduct (IOPC). The list is not exhaustive.
- 2.3 This policy applies to all police officers, police staff, special constables and contractors.
- 2.4 Members of UNISON, the Police Federation or Superintendents Association are encouraged to seek advice and assistance at the earliest opportunity when they become aware of a complaint being made against them.
- 2.5 The Constabularies will ensure that a fair, consistent, transparent and proportionate approach is taken to dealing with, and recording complaints. With the understanding that all customers and Norfolk and Suffolk employees have the right to be heard, understood and respected.
- 2.6 Norfolk and Suffolk Constabularies can only maintain the trust and confidence of the public we serve if we respond expeditiously and professionally to any person seeking to complain or express dissatisfaction about the conduct of our officers and staff or the manner in which we deliver policing services.

3. The Independent Office for Police Conduct (IOPC)

3.1 The Independent Office for Police Conduct (IOPC) which, prior to the 8th January 2018, was called the Independent Police Complaints Commission (IPCC), has a statutory duty to oversee the whole of the complaints system and to ensure that suitable arrangements are maintained, by the IOPC itself and by police Forces and chief officers in England and Wales, for:

- The handling of complaints made about the conduct of persons serving with the police;
- The recording of matters from which it appears that there may have been conduct by such persons which constitutes or involves the IOPC of a criminal offence or behaviour justifying disciplinary proceedings;
- The recording of matters from which it appears that a person has died or suffered serious injury during, or following, contact with a person serving with the police;
- The manner in which any such complaints or any such matters as are mentioned in the second bullet point above are investigated or otherwise handled and dealt with.

3.2 The (IOPC) statutory guidance sets out the principles and standards for dealing with public complaints or allegations of misconduct, including those on timeliness and proportionality.

3.3 The guardianship role of the IOPC allows the police service to demonstrate independence, accountability and integrity of the system and so increase public confidence not only in the police complaints system but also in the police service as a whole.

3.4 The IOPC may choose to independently investigate the most serious incidents, manage a police investigation, or supervise a police investigation.

4. Police Accountability

4.1 Police and Crime Commissioners (PCCs) are responsible for holding to account the Chief Officer of their Force for how policing services are delivered in their Force area.

4.2 The PCC is also the appropriate authority (AA) for any complaints, conduct matters, or DSI matters involving the Chief Officer (or any acting Chief Officer) of the force that he or she oversees.

4.3 The PCC or nominated person within the PCCs office will assess and manage those complaints against the Chief Constable.

5. Secondment Agreements

- 5.1 Officers and staff who are seconded either through the Police Act or Police Reform Act, including officers who work in ERSOU and officers seconded to other Forces whilst on mutual aid, will have complaints dealt with in accordance with the relevant separate procedures. Further information can be obtained from PSD.

6. What is a 'Complaint'?

- 6.1 A complaint is defined as an expression of dissatisfaction by a member of the public about the conduct of a person serving with the police. This could, for example, be about the way the person has been treated or the service they have received. (Please see below for 'Service Recovery' procedures in cases where a formal complaint is not made or intended.)
- 6.2 The previous distinction between 'conduct' and 'direction and control' no longer applies to the definition of a complaint. However, the distinction does impact upon the complainant's right of appeal.
- 6.3 Complaints about an individual's conduct will relate to their conduct as a police officer/police staff member; therefore, the individual will almost always have been on duty at the time of the conduct being complained of. The fact that the person complained of is a police officer/police staff member will not normally be sufficient to justify recording the matter if the individual was off duty at the time, unless they have in some way placed themselves on duty or the fact they are employed within the service is an essential component to the cause for complaint.
- 6.4 Additionally, if the complaint is about conduct which, if proved, discredits the police service or undermines public confidence in it then it may be recorded under the Police Reform Act 2002.
- 6.5 Cases of doubt should be referred to the joint Professional Standards Department (PSD).

7. Complaints about Service Recovery

- 7.1 Service Recovery (SR) was introduced to provide officers and police staff with the opportunity to resolve complaints or grievances in an immediate and non-bureaucratic manner. The Service Recovery process is managed by Norfolk and Suffolk Professional Standards Department and is part of the Complaint Reduction Strategy, intending to provide a proportionate response where a member of the public reports that they are dissatisfied with the service that they feel they may have received. If the complaint or dissatisfaction can be resolved then and there, there is no requirement to record their concern as a Police Reform Act (PRA) complaint.
- 7.2 In cases of SR involving Cambridgeshire officers or staff, the details should be forwarded to Cambridgeshire by creating a CAD which can be

transferred to Norfolk Contact and Control Room (CCR), who in turn will transfer direct to Cambridgeshire CCR.

- 7.3 The process will afford local supervisors the opportunity to deal quickly with matters to resolve lower level, minor, concerns about the service members of the public may feel they have received, without the need for recording a public complaint.
- 7.4 Service Recovery has not been introduced to replace the public complaints process and should not be used to prevent members of the public making formal complaints if they wish to.
- 7.5 Service Recovery is a simple process requiring contact with the member of the public by a Supervisor to establish what their issues are, taking action as soon as possible to resolve the issues and reporting the findings to the person who raised them.
- 7.6 Service Recovery must not be used where a member of staff is alleged to have committed a criminal offence or where there is an allegation of misconduct. It is not to be used where there is a death or serious injury following police contact either. These matters must be referred to the Professional Standards Department immediately.
- 7.7 In cases where an immediate explanation is provided by the officer or member of staff involved, and this is accepted, without the need for any further action then this will not be Service Recovery and a record should be made on the relevant CAD and/or a Pocket Note Book (PNB).
- 7.8 The IOPC concurs that, "Police Forces should establish if members of the public wish to make a formal complaint to begin with. The informal process is focused on what the complainant wants to happen. It is complainant led and is appropriate when it is possible to respond to or resolve the issue immediately. Immediately means any explanation or apology that can be given at the time or during the first contact with the complainant. The complainant is the only person who can decide if the explanation or apology they have received is appropriate. They can choose to complain formally at any point".
- 7.9 Examples:

- A member of the public speaks to an officer and raises concerns about the length of time taken to respond to their call. The officer explains that they were attending another emergency call and attended their call as quickly as possible. The member of the public is satisfied with this response and requires no further explanation.

This is good practice; the matter was dealt with immediately by the officer involved without any course for further action and is not Service Recovery. The officer should record this in their PNB and/or update the relevant CAD.

- In the same circumstances the member of the public calls the Force Control Room after the officer has left to state that they are unhappy about the length of time it took for Police to respond. The control room operator is unable to provide an immediate satisfactory explanation and the matter is passed to a Supervisor. The Supervisor speaks to the officer and establishes that they were engaged on another emergency call and attended as soon as they could.

This explanation is provided to the member of the public and they state that they are content with this explanation and do not require any further action to be taken.

This is Service Recovery; the Supervisor has taken some action to deal quickly with a concern raised over the quality of service provided. The matter has been resolved to the satisfaction of the member of the public.

A Service Recovery form should be completed and forwarded to Professional Standards and the CAD updated accordingly.

- In the same circumstances the member of the public calls in to complain about the time it took to respond to their call. An immediate explanation is provided by a Supervisor but they still wish to make a complaint.

A complaint should be recorded on a PSD 1 and forwarded to Professional Standards.

7.10 If it is appropriate for Service Recovery to be used, the following procedure should be adopted:

- The matter should be brought to the attention of a Supervisor;
- The Supervisor should make contact with the member of the public as soon as possible to establish what the issues are in relation to the service and their wishes in terms of an outcome;
- If the matter can be dealt with immediately, the Supervisor should take action to resolve it. For example:
 - obtain an account from the member of staff and provide an explanation;
 - provide an explanation about why something has been done, e.g. Force Policy;
 - if appropriate, offer an apology on behalf of the organisation.
- If the matter is resolved to the satisfaction of the member of the public:

- Complete a PNB and/or CAD entry;
- Complete the Service Recovery form
- Submit to PSD who will record the fact that the matter has been resolved.

7.11 Only complete a Service Recovery form where the matter has been resolved to the satisfaction of the member of public using this process.

7.12 If the Service Recovery process has commenced and the member of the public changes their mind and wants to make a formal complaint, or the matter does not appear to be low level, advice should be sought from PSD and/or complete a PSD 1 and submit to PSD immediately.

7.13 The IOPC describe a complaint as, “an expression of dissatisfaction by a member of the public about the conduct of a person serving with the police.”

7.14 There are stringent recording times for complaints. A completed PSD 1 should be returned immediately, or the Service Recovery form should be forwarded within 48 hours of initial contact with the member of the public.

7.15 It is essential that, where possible, early contact is made with members of the public who may be dissatisfied or who wish to make a complaint. Early meaningful, intervention may prevent the matter becoming a formal complaint provided the member of the public is satisfied with the outcome.

7.16 Matters that are resolved using the Service Recovery process will be monitored by PSD and reviewed as part of the complaint histories process to capture an adequate picture across the board of officer/staff performance. It will also be used to provide statistical information and inform the lessons learned programme.

8. Who can make a complaint?

8.1 The following can make a complaint:

- The alleged victim of the conduct;
- Persons adversely affected by the conduct (suffered a loss/damage/distress as direct consequence of conduct);
- Witnesses to the conduct, i.e. someone who could give admissible evidence of the alleged conduct;
- A person acting for one of the above (with written consent unless a solicitor);
- Gateway Organisations recognised by the IOPC, e.g. Citizens Advice Bureau;

- A member of a different Police Force, off duty at the time. If on duty at the time, or a member of the same Force, it should be treated as an internal discipline matter.
- 8.2 Police officers and staff members cannot make a complaint under this policy against a member of their own Force, this includes officers/staff on collaborated units and officers/staff seconded into the Force. They can make a complaint against a member of another Force, but only when it does not arise from their own operational duty.
- 8.3 Partners and/or relatives of serving officers and staff are able to complain in their own right. It should not automatically be assumed, that a complaint made by a partner or relative is either vexatious or an abuse of procedure as they might legitimately claim to have witnessed, or been adversely affected by, the conduct alleged.
- 8.4 Internal complaints should be raised through management channels and procedures are in place for dealing with these, i.e. Misconduct (Police Officers), Disciplinary (Police Staff), Unsatisfactory Performance, and Grievance/Fairness at Work policies.

9. Initial Action and Recording of Public Complaints

- 9.1 The primary focus of the initial handling of a complaint should be to resolve it, with the exception of certain serious complaints, which must be referred to the IOPC.
- 9.2 All police forces have a duty under the Police Reform Act 2002 to record complaints about the conduct of a person serving within their force within ten working days of receiving the complaint.
- 9.3 The Complaints Management Unit (CMU) act as the gateway for all complaints and expressions of dissatisfaction received by Norfolk and Suffolk Constabularies. They oversee the management of public complaints to ensure compliance with the relevant legislation and to provide specialist advice, guidance and support to all police personnel, members of the public, and other interested parties involved in the process, including the IOPC.
- 9.4 A complaint does not have to be communicated in writing, nor does it need to say explicitly that it is a complaint. It can simply be a statement of dissatisfaction.
- 9.5 It is important that the complainant is given the opportunity to explain their dissatisfaction and how they wish the matter to be resolved.
- 9.6 Supervisors and other staff taking initial details of complaints should complete Form PSD1 and forward it to the Professional Standards Department for recording without delay (via email psd@norfolk.pnn.police.uk).

- 9.7 When a complaint is received via letter, email or other non-face-to-face means, a suitable officer/member of staff should arrange to meet with the complainant as soon as possible to discuss and fill in the PSD1 Form and forward to the Professional Standards Department as soon as possible. Where appropriate, means of potential resolution and/or what the complainant would regard as a satisfactory outcome should also be discussed.
- 9.8 The PSD1 allows for details provided by the complainant and includes their name, date of birth, address and contact details. The complainant should be asked their preference for contacting them, whether by email, letter or telephone.
- 9.9 Some complainants will require reasonable adjustments and may need assistance in recording their complaints. Further guidance can be sought from CMU, however, the expectation is that the officer or staff member taking the complaint will be responsible for progressing this.
- 9.10 Some complainants may be making a complaint on behalf of someone else, a family member or friend, or an agent acting on behalf of the dissatisfied party. In this instance, written authorisation will be required from the complainant before the complaint can be progressed. Children under 16 years of age can make a complaint and do not necessarily require permission from a parent or guardian however, consideration should be given to whether some form of support would be appropriate to assist them in this process.
- 9.11 Steps must always be taken to secure and preserve any evidence. Particular attention should be given to time critical evidence such as the recovery of CCTV evidence or Body Worn Video footage, forensic opportunities and the identification of witnesses. All action taken must be recorded on the complaint form.
- 9.12 The complainant should be informed of who is dealing with the complaint and how to contact them. They must be kept informed of progress throughout the complaint by providing meaningful updates at least every 28 days and must be recorded on a contact log.
- 9.13 In complaints involving Cambridgeshire officers/staff, Form PSD1 should be completed by the person receiving the complaint and forwarded to Cambridgeshire PSD as soon as possible (via fax 01234 842527 or email psd.complaints@cambs.pnn.police.uk). The form should be clearly marked that it relates to a Cambridgeshire officer or member of staff.
- 9.14 Where the complaint relates to officers/staff from Norfolk and/or Suffolk and Cambridgeshire constabularies, there is a need to ensure that the complaint form is sent to Norfolk and Suffolk PSD as well as Cambridgeshire PSD.

10. When not to Record a Complaint

10.1 Sometimes complaints are identified as being for example vexatious, repetitious or an abuse of the complaints process (non-exhaustive). A decision can be made that the complaint will not be recorded under the Police Reform Act 2002.

10.2 All complaints must be recorded, unless:

- The subject matter has been, or is being, dealt with by criminal or disciplinary proceedings against the person whose conduct it was;
- The complaint has been withdrawn;
- The complaint falls within a description of complaints specified by the Police (Complaints & Misconduct) Regulations 2012 as set out below.

10.3 The complaints specified by the Police (Complaints & Misconduct) Regulations 2012 are those where the appropriate authority considers that:

- The matter is already the subject of a complaint made by or on behalf of the same complainant;
- The complaint discloses neither the name and address of the complainant nor that of any other interested person and it is not reasonably practicable to ascertain such a name or address;
- The complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints;
- The complaint is repetitious; or
- The complaint is fanciful.

10.4 When it is decided not to record a complaint, the reason will be explained to the complainant who will be advised of the right of appeal (if applicable) to the IOPC and provided with the IOPC Leaflet 'Appealing against the non-recording of a complaint'.

10.5 Where it is not apparent at the time of recording that an exemption applies, then it may be appropriate to consider disapplication of the complaint. (Refer to the [Dispensing with Complaints/Discontinuing Investigations](#) section.)

11. Referrals to the IOPC

11.1 Increasing public confidence in the independence, accountability and integrity of the police complaints system will depend on the public seeing an effective response to the most serious incidents. PSD are responsible for making referrals to the IOPC.

11.2 [Mandatory referrals](#), along with other cases that the police may decide to refer to the IOPC, help the police to demonstrate openness. These arrangements ensure that the IOPC can oversee these investigations with the appropriate level of external supervision.

11.3 There is a statutory duty to refer to the IOPC incidents where persons have died or been seriously injured following some form of direct or indirect contact with the police and there is reason to believe that the contact may have caused or contributed to the death or serious injury. They will be cases that do not involve a complaint or conduct matter when first identified and categorised. (See [Incidents of Death or Serious Injury](#) section.)

Categories of Mandatory Referrals

11.4 The police **must** refer complaints and conduct matters that include the following allegations:

- Serious assault by a member of the police service;
- Serious sexual assault by a member of the police service;
- Serious corruption;
- Criminal offence or other behaviour aggravated by discriminatory behaviour;
- Any offence for which the sentence is fixed by law or for which a person aged 18 years or over may be sentenced to imprisonment for seven years.

11.5 Where there is any doubt about whether a complaint or incident falls within the mandatory criteria it is essential that the matter is referred to the Professional Standards Department. There is always a member of the department available on standby 24/7 and they can be contacted out of normal office hours by the Duty Inspector in the Control Room.

Voluntary referrals to the IOPC

11.6 The IOPC encourages Forces to refer complaints or incidents that do not come under the automatic referral categories but where there are serious concerns or exceptional circumstances that may have a significant impact on public confidence.

Call-in by the IOPC

11.7 The IOPC has the power to call-in particular cases of concern or sensitivity which might not otherwise be referred to the IOPC.

Timescale for referral to the IOPC

11.8 Forces should refer complaints or incidents as soon as practicable and no later than the end of the working day following the day when it becomes

clear to the Force that it should be referred. The IOPC provides a 24-hour on-call facility to the police service.

11.9 Referrals to the IOPC will not delay any initial action by the police in terms of incident scene management, or securing or preserving evidence.

12. Mode of Investigation

12.1 There are five modes of investigation into a public complaint, three of which include differing levels of IPCC involvement:

- [IOPC Independent](#);
- [IOPC Managed](#);
- [IOPC Supervised](#).

12.2 Any complaints which do not require referral to the IOPC will be dealt with by means of either:

- [Local Investigation](#);
- [Local Resolution](#).

12.3 If the complaint appears to fall into the category of [Mandatory Referral](#), the Professional Standards Department should be notified as soon as practicable and will be responsible for referral to the IOPC.

12.4 The IOPC assesses the seriousness of the case and the public interest and determines the form of investigation in this way.

12.5 Officers and Staff may seek advice from the Police Federation, Superintendent's Association or UNISON for any investigation involving them.

IOPC Independent Investigation

12.6 An independent investigation is conducted by IOPC staff into incidents that cause the greatest level of public concern, have the greatest potential to impact on communities or have serious implications for the reputation of the police service. In independent investigations, IOPC investigators have the powers of a police constable. There is no right of appeal in an independent investigation.

IOPC Managed Investigation

12.7 A managed investigation is conducted by the police under the direction and control of the IOPC, when an incident, or a complaint or allegation of misconduct, is of such significance and probable public concern that the investigation of it needs to be under the direction and control of the IOPC but does not need an independent investigation.

12.8 The IOPC is responsible for setting the Terms of Reference for the investigation in consultation with the Force. An IOPC Commissioner agrees the Terms of Reference and approves the choice of IO who is nominated by the Force. The IOPC Regional Director or Investigator manages the investigation and receives regular progress reports.

12.9 Responsibility for maintaining the record of decisions and for conducting a timely investigation rests with the IOPC. There is no right of appeal in managed investigations.

IOPC Supervised Investigation

12.10 A supervised investigation is conducted by the police when the IOPC decides that an incident or a complaint or allegation of misconduct is of less significance and probable public concern than for an independent or managed investigation but oversight by the IOPC is appropriate.

12.11 An IOPC Commissioner approves the choice of IO, and agrees the Terms of Reference and investigation plan; both are drafted by the Force. An IOPC process for regular review including risk assessment, may be agreed at the outset depending on the nature and scale of the investigation and included in the Terms of Reference. In these cases any changes should be recorded.

12.12 Responsibility for maintaining the record of decisions and for conducting a timely investigation rests with the Force. The complainant also has the right of appeal to the IOPC at the end of the investigation.

Local Investigation

12.13 Complaints not suitable for [local resolution](#) and not subject of mandatory or voluntary referral to the IOPC will be subject of local investigation.

12.14 Local investigations will be conducted in line with the Statutory Guidance.

12.15 An Investigating Officer (IO) will be appointed to undertake a local investigation.

Local Resolution

12.16 Local Resolution is designed to be a flexible and simple system providing an immediate result for both complainant and police officer/member of staff. It provides an opportunity for a complaint to be resolved without becoming the subject of formal investigation. Many complaints are relatively minor and straightforward, requiring a rapid response from managers responsible for the service provided.

12.17 A complaint is suitable for Local Resolution if the following criteria are met:

- The allegation is such that, even if it were proved, the circumstances would not warrant criminal or misconduct/disciplinary proceedings;
- The complainant gives consent, in writing, to the process;
- The officer/member of staff subject to the complaint is readily available.

12.18 A complaint is **not** suitable for Local Resolution (without the consent of the IOPC) if the following criteria apply:

- When mandatory referral to the IOPC is required;
- When a serious injury is alleged;
- When the complaint is aggravated by alleged discriminatory behaviour.

12.19 If the complainant is the subject of prosecution, the case will be categorised as 'sub-judice' and, while this does not prevent an attempt at Local Resolution, advice should be sought from the Professional Standards Department before such an attempt is made.

12.20 Managers are encouraged to deal with complaints that are suitable for local resolution at the first point of contact and not to delay or defer dealing with them as this can potentially have an adverse effect on the complainant's perception of the constabulary/ies. In all cases, a resolution should ideally be achieved within seven days.

12.21 Complaints involving Cambridgeshire officers/staff being reported to Norfolk personnel can be locally resolved but advice should be sought from Bedfordshire, Cambridgeshire and Hertfordshire Professional Standards Department before doing so.

13. Procedure for Local Investigations

13.1 Officers and staff subject of a complaint will be informed of the nature of the complaint and how it is proposed to deal with the matter. The complainant will be provided with meaningful updates as to the progress of the complaint at least every 28 days.

13.2 The investigator should also take into account the effect of the complaint on the member of staff's welfare and consider informing their line manager in order that any necessary action can be taken.

13.3 The investigator should also consider the impact of the investigation on any key witnesses within the organisation(s) and the need to keep them updated and/or seek local management support to ensure their welfare is provided for.

Special Requirements

- 13.4 Special requirements only apply to investigations of complaints against a member of a police force or a special constable.
- 13.5 If at any time during an investigation of a complaint, it appears to the investigator that there is an indication that a person to whose conduct the investigation relates may have: committed a criminal offence; or behaved in a manner which would justify the bringing of disciplinary proceedings then the investigator must certify the investigation as one subject to special requirements.

Severity Assessments

- 13.6 Severity assessments only apply to investigations of complaints subject to special requirements or recordable conduct matters against a member of a police force or a special constable. Again, in the case of any other person, the investigator must adhere to the relevant policies and procedures for investigating allegations against such persons.
- 13.7 A severity assessment is an assessment as to: whether the conduct, if proved, would amount to misconduct or gross misconduct; and if the conduct were to become the subject of disciplinary proceedings, the form which those proceedings would be likely to take.
- 13.8 The severity assessment must be conducted in consultation with the Appropriate Authority who is a member of the PSD senior management team. Once completed, the investigator must give a written notice to the person concerned, which complies with the requirements of paragraph 19B(7), Schedule 3 of the Police Reform Act 2002 and regulation 16 of the Police (Complaints & Misconduct) Regulations 2012.
- 13.9 Officers and staff may seek advice from the Police Federation, Superintendents Association or UNISON.

14. Procedure for Local Resolution

- 14.1 Having identified a complaint as suitable for local resolution, there are several options to consider. It may be appropriate to simply offer an explanation but there may be the requirement to seek such an explanation from the member of staff concerned. The individual concerned should be reassured that Local Resolution is an informal process and no record of the complaint will be included in their personal file.
- 14.2 The following guidelines apply to the individual concerned:
- An explanation is all that is required;
 - They do not have to submit a report/statement, but can if they wish;

- No entry is made on their personnel record although details of all complaints are recorded on the Professional Standards computer system;
- They will not be reprimanded;
- They can apologise if appropriate;
- They may be asked to meet with the complainant, but do not have to do so;
- They may seek advice from the Police Federation, Superintendents Association or UNISON.

14.3 To ensure the success of Local Resolution it is important that both complainants and officers/staff have confidence in the process. It is an opportunity for officers/staff to explain their actions to the complainant and if appropriate accept that they could have handled the incident differently. It is also an opportunity to address any misconceptions the public may have over what a member of the police service can or cannot do and explain their action and behaviour within the context of their duty.

14.4 The IOPC offers the following guidance in relation to the purpose of Local Resolution stating it is about:

- Management action to improve services the public expect;
- Being willing to acknowledge when something could have been done differently or handled better;
- Listening to officer's/staff concerns;
- Accepting a legitimate complaint is a risk of high visibility, high response public service;
- Following up public concerns;
- Talking to communities about what has been learned from complaints;
- Individual learning and development.

14.5 Local resolution is **not** about:

- Members of the public making unchallenged, personal attacks on officers/staff;
- 'Substantiated' or 'Unsubstantiated' complaints;
- Blame or discipline.

14.6 Once the PSD1 form has been completed with the details of the Local Resolution, the form must be forwarded to the Professional Standards Department for retention.

15. Incidents of Death or Serious Injury (DSI)

15.1 In all suspected DSI matters contact must be made with PSD who will consider whether a referral to the IOPC is required. PSD will then make the referral as necessary under their statutory duty. A DSI matter arises where there has been no initial complaint or recordable conduct matter, but the circumstances are such that a person has died or sustained serious injury and the police are involved in one or more ways defined in the Police Reform Act. The statutory provisions are as follows:

- At or before the time of death or serious injury, the person had contact (direct or indirect) with a person serving with the police who was acting in the execution of their duties; and
- There is an indication that the contact may have caused (directly or indirectly) or contributed to the death or serious injury.

15.2 The definition is wide and would include the following:

- Road deaths involving the police – this includes people who die or sustain serious injury in road collisions whilst attempting to avoid arrest and people who die or sustain serious injury in road traffic collisions involving the police;
- Fatal shootings involving the police – this covers people who die when police officers fire the fatal shot(s);
- Deaths or serious injury in or following custody – this includes people who die or sustain serious injury whilst being arrested or being taken into detention, having been arrested or otherwise detained by the police; those who die or sustain serious injury in or on the way to hospital following or during transfer from police detention where there is a link between the detention and the death or injury.
- Deaths or serious injury (including suicides and attempted suicides) during or following other types of contact with the police – this includes forms of contact that did not amount to detention and where there is a link between the contact and the death.
- Near misses should also be referred to the Professional Standards Department for assessment.

15.3 In relation to joint working between Norfolk Constabulary and Cambridgeshire Constabulary, the appropriate authority is responsible for referring matters to the IOPC. Where there is a need for both Constabularies' PSDs to be aware, responsibility for notifying the PSD in the other Force rests with the PSD carrying out the referral.

15.4 The nature and circumstances of these serious cases can be varied and could be such that the IOPC conduct an independent, managed or supervised investigation. In DSI cases involving joint working between Norfolk and Cambridgeshire Constabularies, the Head of each PSD (or

their nominated deputies) will liaise and agree who will lead the investigation in consultation with the IOPC.

- 15.5 In relation to DSI referrals to the IOPC, the National Police Chief's Council (NPCC) Complaints and Misconduct Working Group issued guidance in respect of cross border DSI matters and is attached at [Appendix B](#).

16. Appeals

- 16.1 The Relevant Appeal Body (RAB) (The Chief Constable or the IOPC) will depend on how the original complaint was assessed, i.e. if proved would the allegation amount to a criminal offence or justify disciplinary proceedings. If so the RAB is the IOPC otherwise the right of appeal is to the Chief Constable.
- 16.2 An appeal offers a final opportunity to consider whether the complaint could have been handled better at a local level and where appropriate put things right.
- 16.3 There is no appeal regarding the outcome of a managed or independent investigation.
- 16.4 Appeals are currently dealt with by the Appeals and Policy Unit (APU) within PSD.
- 16.5 The appeal will be considered on the grounds as set out in the statutory guidance (see Appendix H). If the appeal is not upheld, a letter will be sent to the complainant with rationale. If the appeal is upheld and a reinvestigation is required, this will be allocated to a suitable investigator. This should not be the investigator who undertook the original complaint.

17. Appeal Changes and the Policing and Crime Act (PCA) 2017

- 17.1 The Policing and Crime Act received Royal Assent on 31st January 2017 introducing wide ranging reforms to improve integrity and public confidence in policing, including the intention to move the appellate function for public complaints to the Office of Police and Crime Commissioners (OPCC) to provide independence.
- 17.2 Secondary enabling legislation and revised IOPC Statutory Guidance is due to come into effect in the spring of 2019. Until this time PSD will continue to be the AA for certain cases.

18. Disapplication and Discontinuance

Disapplication

- 18.1 The Head of Professional Standards may consider that no action should be taken about a complaint (before any investigation is started) and can disapply the complaint.

18.2 Grounds for disapplication are:

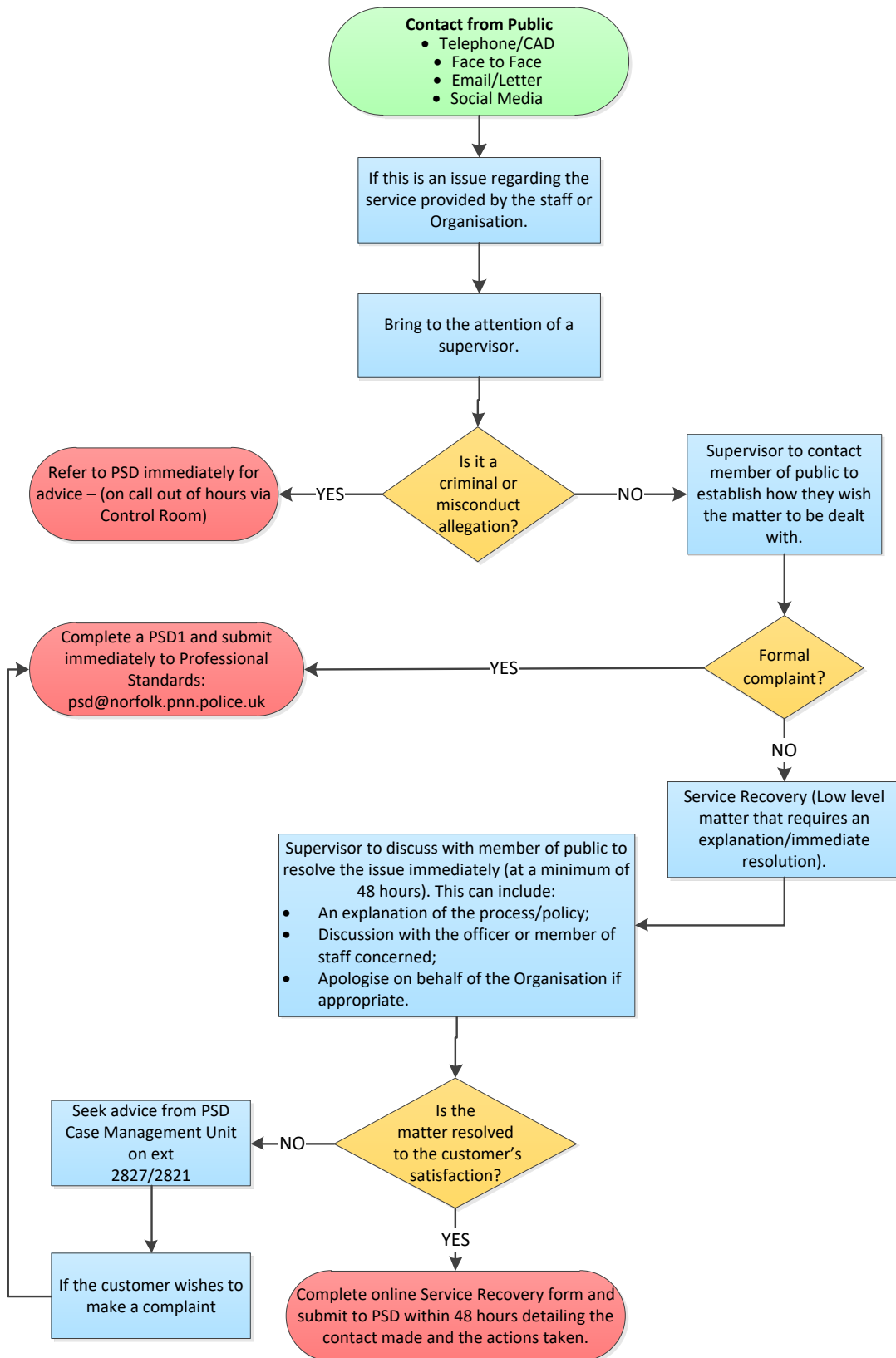
- When more than 12 months have elapsed between the incident and the complaint and either there is no good reason for the delay or that injustice would be likely to be caused by the delay;
- The complaint is repetitious and contains no new evidence or allegations;
- The complaint neither discloses the name nor the address of the complainant nor that of any other interested person and it is not reasonably practicable to ascertain such name and address;
- The complaint is vexatious, oppressive or otherwise an abuse of the complaints procedure;
- It is not practical to communicate with the complainant or person acting on their behalf in order to proceed with the complaint;
- It is not practical to proceed with the complaint because of a refusal or failure of the complainant to co-operate.

Discontinuance

18.3 When the Head of Professional Standards considers it is no longer practical to continue with an investigation or conclude an investigation they can discontinue the investigation on the following grounds:

- Non-cooperation of the complainant;
- The complainant agrees to Local Resolution;
- The complaint turns out to be vexatious, oppressive or an abuse of procedure;
- The complaint turns out to be repetitious.

Appendix A – Service Recovery Process



Appendix B – Protocol for the referral of DSI matters to the IOPC

Background and Purpose

There is a requirement upon police Forces to refer “DSI matters” to the Independent Office for Police Conduct (IOPC)¹. Some DSI matters involve staff from more than one police Force. This protocol sets out guidance for police Forces dealing with cross border DSI matters to work to when deciding who is responsible for making a referral to the IOPC. The aim of this guidance is:

- To reduce duplication of the effort that occurs when separate Forces refer the same matter to the IOPC; and
- To reduce the likelihood of a DSI matter not being referred to the IOPC due to a wrong assumption that another Force was referring the matter.

This document is not intended to be mandatory in nature; it is guidance issued to the Heads of Professional Standards Departments by the NPCC Complaints and Misconduct working group following discussion by group members at the meeting of the group on 27th October 2010.

Guidance

The responsibility for securing and preserving evidence at the scene of a death or serious injury rests with the Force within whose jurisdiction the death or serious injury occurred. Primacy for scene management and golden hour actions associated with the incident remains with the Force where the incident occurred until and unless an alternative agreement is reached.

Where it becomes apparent that the death or serious injury amounts to a “DSI matter” as defined within the IOPC statutory guidance the incident should be referred to the Professional Standards Department (PSD) of the Force dealing with the incident (the lead Force). The lead Force’s PSD will be responsible for assessing which Force or Forces had the relevant contact as defined within the statutory guidance (the contact Force).

Having identified the Force(s) which had relevant contact it will be the responsibility of the lead Force’s PSD to notify all relevant PSDs. It will usually be the responsibility of the PSD of the Force that had the relevant contact to refer the matter to the IOPC. Where there is any ambiguity or reason to act differently this should be discussed at an appropriately senior level within each of the PSDs involved in the incident.

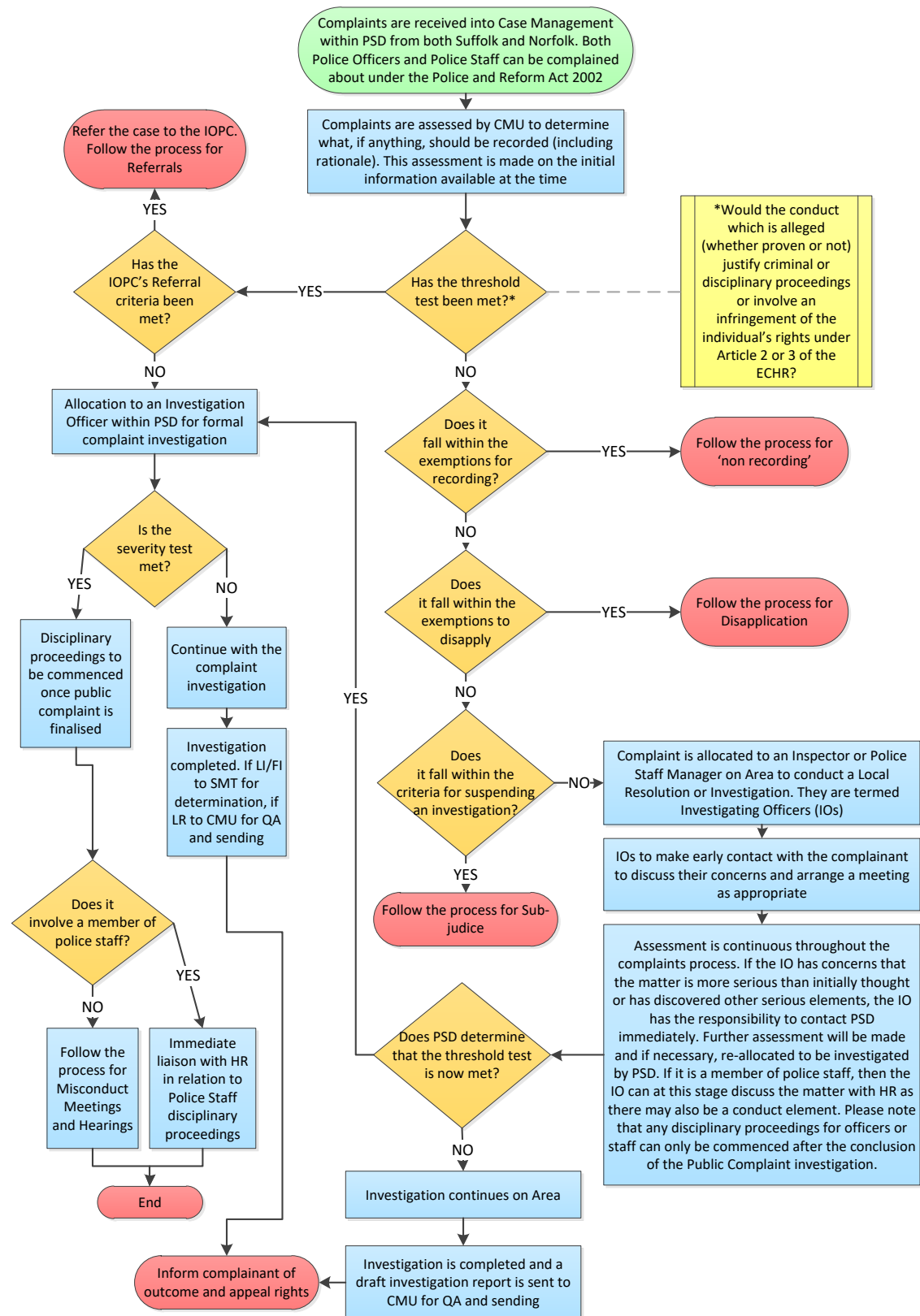
Associated Issues

DSI matters may have an impact upon communities local to both the original contact and where the incident itself occurred. There should be liaison between the lead Force investigating and the contact Force’s PSD to ensure there is a jointly agreed communications/media strategy. The IOPC must be involved in any media release if the case has been referred. Where appropriate such dialogue should include the discussion of managing any wider community impact issues arising from the incident.

¹ The definition of a DSI matter is found on page 40 of the IOPC’s statutory guidance. Referral of DSI matters is dealt with on page 43 of the same guidance. The guidance is available for reference [here](#)

It is expected that all Forces will (unless there are good and exceptional reasons not to) exchange full details of the incident sufficient to allow effective and prompt assessment and referral of the incident to the IOPC.

Appendix C – Public Complaints Process



Appendix D – Guidance on Dealing with a Local Investigation

The Independent Office for Police Conduct (IOPC) state that the purpose of an investigation is to establish the facts behind a complaint, and to document your conclusions. This includes, where applicable, whether there is a case to answer for misconduct or unsatisfactory performance. It is also an opportunity to ascertain whether there is any learning for the force arising from the incident itself or the way it was handled.

An investigation should be fair, reasonable and objective and based on evidence. What is reasonable in each case will depend on the particular circumstances of the complaint.

When you are allocated a complaint you will be sent the following documents.

- The original complaint correspondence,
- The Professional Standards assessment,
- Any associated crimes/CADs,
- A Local Investigation (LI) Complaint Log. This will document your contact with the complainant and detail all the actions you have taken to gather the evidence during the course of your investigation.
- An LI Process letter. This will act as the final letter. This is designed to guide you through the investigation process and record your findings and conclusions. It will include any lessons learned, and whether the service provided has fallen below the professional standard.

On receipt of case papers from CMU:

You must make a written note in the LI complaint log to declare whether or not there is anything that could reasonably give rise to a concern about whether you can investigate the matter impartially. If you identify that there is a conflict of interest please contact CMU.

1. Contact must be made with the complainant.

- They should be given the opportunity to provide further information and make comments about their complaint. You should agree with the complainant how they wish to be kept informed of the progress of the investigation (i.e. by telephone, in writing, or in person).

When speaking to the complainant try to identify the following:

- The full details/circumstances of their complaint.
- The details of the officers subject of the complaint(s).
- Ask them what they would like to see as an outcome to their complaint. You may need to manage their expectations.
- Participation by the complainant should be actively encouraged.
- Keep a log of all contacts with the complainant. Record your conversations and any actions which have been agreed. You should be able to demonstrate that steps were taken to understand the complaint and their views. Record the time and date of all contacts.

- It is important that you contact the complainant at least every 28 days to provide them with an update on your progress. Updates on the progress of the investigation may include, for example, information about the stage reached in the investigation, what has been done, what remains to be done and, where applicable, a summary of any significant evidence obtained. Updates should also include the likely timescale for completing the investigation and any revisions to this.
2. Tell the complainant how you are going to deal with their complaints.
- Explain the actions you are going to take and the enquiries you will make to resolve their issues.

The actions to be taken will depend on the substance of the complaint and the discussion that has taken place. The actions must be effective and achievable and not unduly raise the expectations of the complainant. You should adopt a proportionate approach in order to ensure that, in the public interest, investigative resources are focused, efficient and fair.

Some examples;

- Request an account from the officer(s) and/or staff member(s). Best practice would be to keep an auditable record of it. The officer or staff member should be invited to provide a written response or sign the notes taken of the meeting, to confirm the accuracy of the record made of any conversations.

It is also good practice, where it will not prejudice the investigation, to keep the officer or staff member who is the subject of the investigation regularly informed of the investigation's progress.

- Review CADs
- Review Athena Investigations
- View CCTV
- Listen to WAV recordings
- Review Force Policies

Record the results of your enquiries. Every investigation, no matter how small or quick, requires some level of file recording to show what was done and why, together with the collation and preservation of any documents or other evidence seen or created as part of the investigation.

3. Allegations involving discrimination

Judgements made at the start of the investigation may well change in the light of the evidence. An allegation of discrimination could be more serious if, for example, the allegation has become the focus of public concern, or the incident may demonstrate that an officer's subsequent decision making may have been influenced by discriminatory attitudes.

The following can be used as a guide;

- Does the alleged discriminatory behaviour involve words, attitude or actions?

- What was the impact of the alleged behaviour on the complainant?
- What is the nature of the evidence supporting the alleged behaviour and what other evidence is likely to be found in establishing what happened during the incident?
- What does the complainant or interested person expect as an outcome for dealing with the alleged discrimination?
- Has the impact of the incident affected, or is it likely that the impact will affect, the wider community or have a negative impact on views about the police service?

It may also be useful to consider comparator evidence such as:

- How any other persons serving with the police who were present behaved at the incident;
- How other members of the public were treated at the same incident;
- How this officer or police staff member has behaved in similar circumstances;
- How this complainant or interested person has been treated at other similar incidents;
- How a reasonable person serving with the police with similar levels of training and experience would be expected to behave in these circumstances.

When assessing all of the evidence it is important to give appropriate weight to any explanation given by the officer in response to the allegation of discrimination, particularly where there is a difference in treatment which has resulted in detriment to the complainant. There may have been an obvious detriment, such as loss of liberty. However, detriment can also include loss of dignity and hurt feelings. You will have to make an assessment about whether the explanation provided is adequate, reasonable and justified in the circumstances. The allegation will be difficult to assess where the officer has provided no explanation for the alleged behaviour. Comparator evidence, in these circumstances, may be helpful as a means of determining whether discrimination was a factor.

Discrimination is not always overt, and it can be necessary to look at all the circumstances of a particular case in order to see if discrimination can rightly be inferred from the surrounding facts.

The relationship between the police and people from minority groups may be affected by local circumstances. You should ensure you have an awareness of local issues.

The IOPC have provided guidance in dealing with complaints of discrimination which is available on their website.

4. At the conclusion of the investigation, you must make a decision as to whether the complaint is justified and if the complainant has received a poor service.

If you have identified that the level of service has been poor, possible actions can include the following:

- The staff member to be given management action, in the form of words of advice.
 - An apology on behalf of the Constabulary or the person complained about (who must agree to the apology).
 - A review of policies or procedures.
5. Send all papers back to PSD, including all documentary evidence obtained during the investigation process. Send to the Professional Standards email address.

Please notify the CMU if you have any concerns regarding information contained in the report which may be considered harmful to disclose. Potential harm can sometimes be avoided or minimised by redacting the material that is harmful from the document or information requested. What needs to be removed will depend on what information is requested and what harm may arise from its disclosure.

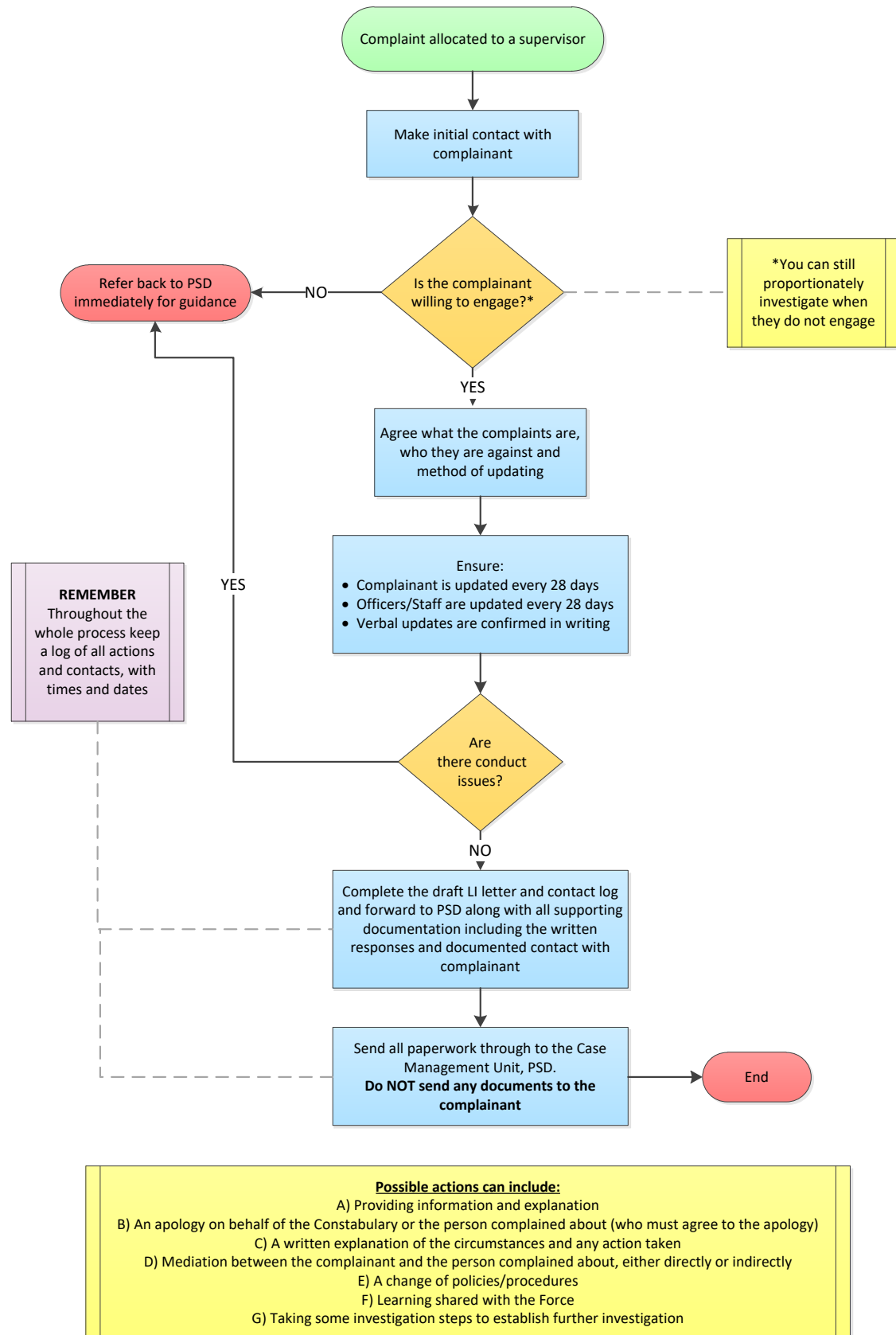
6. Inform the complainant that you have concluded your investigation and that they will be contacted in due course with a copy of your findings and your conclusion.
7. The investigation letter will be subject to a QA process by CMU. It may be returned to you for further work to be done.

If further work is required, it is your responsibility to maintain contact with the complainant and provide updates to them at least every 28 days.

8. When the completed papers are returned to CMU they will be forwarded to a senior manager in PSD for a determination. A letter will be prepared to be sent along with the LI findings to the complainant advising them of the right of appeal. They will have 29 days in which to appeal the decision.

CMU staff are available to provide advice and guidance about the process and completion of the forms and the overall complaints process at any time.

Appendix E – Process for Local Investigations: Resolving a complaint using Local Investigation (LI). Guidance for Supervisors



Appendix F – Guidance for Local Resolution Process

The Independent Office for Police Conduct (IOPC) encourages complaints to be dealt with locally by way of the Local Resolution (LR) process. This is a quick and effective way of dealing with low level complaints and focuses on the service provided by the police and not the conduct of the members of staff concerned.

The LR process is used for complaints where there is no evidence to support that the persons conduct might if proven, result in disciplinary proceedings. If during the LR process evidence is identified which means that this needs to be given further consideration then please refer the case back to the Complaints Management Unit (CMU).

When you are allocated a complaint to Locally Resolve you will be sent the following documents.

- The original complaint.
- The Professional Standards assessment.
- Any associated crimes/CADs.
- An LR Complaint Resolution Form. This will act as the *final letter* and incorporates the log of contact with the complainant, any lessons learned, and contains all the relevant sections which will enable you to successfully Locally Resolve the complaint. It is a living document which you can dip in and out of, updating it as the complaint is resolved.
- An LR Process Sheet. This is designed to guide you through the process and will act as confirmation that you have completed the Local Resolution Process and complied with the organisations legislative obligations with respect to complaints. You simply tick the appropriate box at each stage and then electronically sign at the conclusion of the process.

On receipt of case papers from CMU:

1. Contact must be made with the complainant.

- They should be given the opportunity to provide further information and make comments about their complaint.

2. When speaking to the complainant try to identify the following.

- The full details/circumstances of their complaint.
- The details of the officers subject of the complaint(s).
- Ask them what they would like to see as an outcome to their complaint. You may need to manage their expectations.

3. The legislation does say that there is no requirement for the complainant to agree to the process, however participation by that person should be actively

encouraged. If the LR process fails due to a relationship breakdown with the complainant, or the desired outcomes are unachievable and there is no way of engaging in a two way process, refer back to CMU for further guidance.

4. Keep a log of all contacts with the complainant.

- Record your conversations and any actions which have been agreed.
- Record the time and date.
- It is important that you contact the complainant at least every 28 days to provide them with an update on your progress.

5. Tell the complainant how you are going to deal with their complaints.

- Explain the actions you are going to take and the enquiries you will make to resolve their issues.

6. The actions to be taken will depend on the substance of the complaint and the discussion that has taken place. The action plan must be effective and achievable and not unduly raise the expectations of the complainant. Some examples;

- Request an account from the officer(s).
- Review CADs.
- Review Athena Investigations.
- View CCTV.
- Listen to WAV recordings.
- Review Force Policies.

7. Record the results of your enquiries on the LR Form.

8. Ensure that you retain all supporting documentary evidence. Best practice is to request accounts from officers on an email or a word document. If you take a verbal account ensure you make notes or a PNB entry and request that the officer signs them.

9. At the conclusion of the LR procedure, you must make a decision as to whether the complaint is justified and if the complainant has received a poor service.

10. If you have identified that the level of service has been poor, possible actions can include the following:

- The staff member to be given management action, in the form of words of advice.
- An apology on behalf of the Constabulary or the person complained about (who must agree to the apology).

- A review of policies or procedures,

Remember LR is not seeking to establish blame but is about resolving the complaint.

11. Send all papers back to PSD, including all documentary evidence obtained during the LR process. Send to the Professional Standards email address.

- Inform the complainant that you have concluded your investigation and that they will be contacted in due course with a copy of your findings and your conclusion.

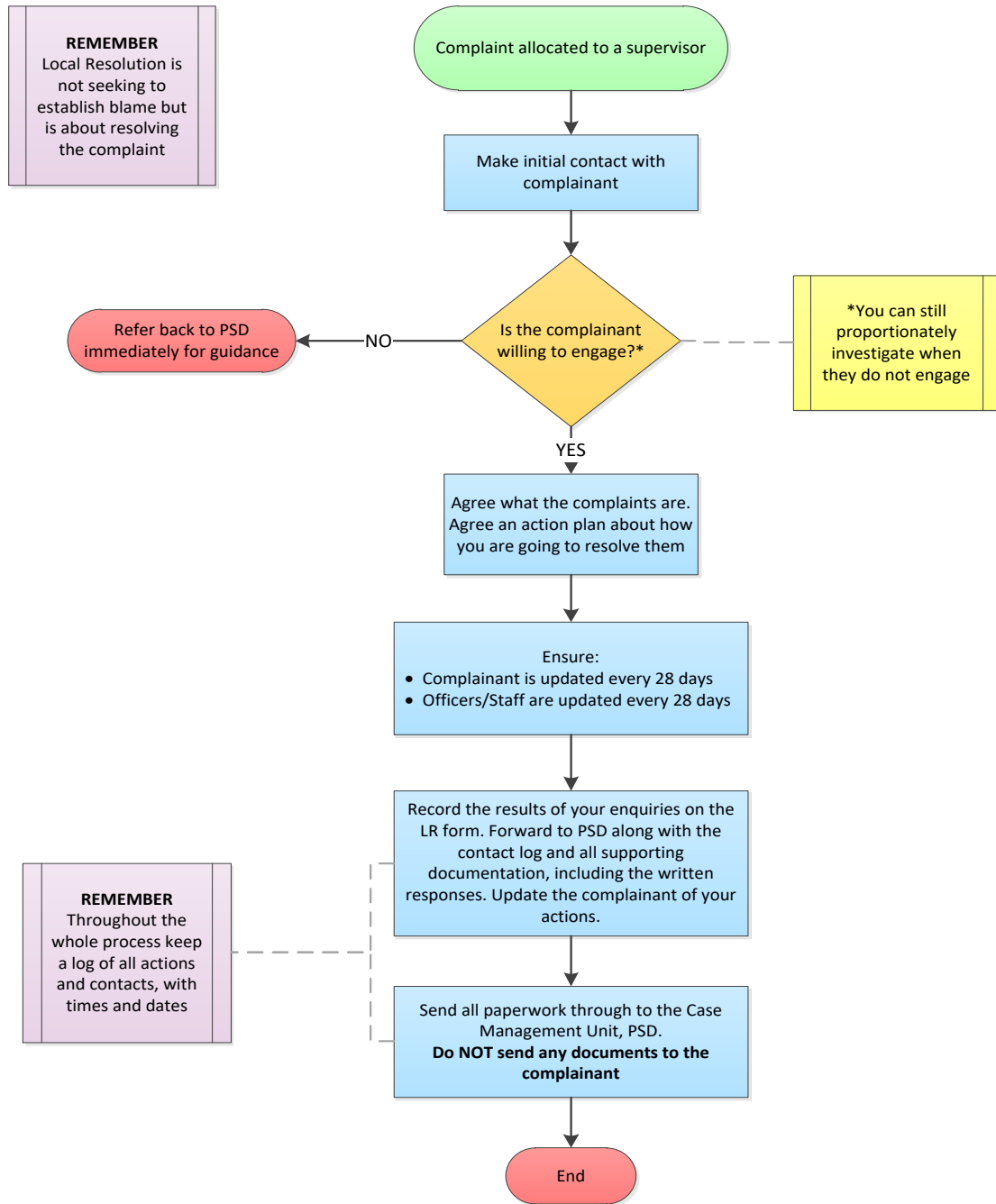
12. The LR form will be subject to a QA process by CMU. It may be returned to you for further work to be done.

- If the LR form is returned it is your responsibility to maintain contact with the complainant and provide updates to them at least every 28 days.

13. When the completed LR is returned to PSD it will be forwarded to a senior manager in PSD for a determination. A letter will be prepared to be sent along with the LR findings to the complainant advising them of the right of appeal. They will have 29 days in which to appeal the decision.

CMU staff are available to provide advice and guidance about the process and completion of the forms and the overall complaints process at any time.

Appendix G – Process for Local Resolution: Resolving a complaint using Local Resolution (LR). Guidance for Supervisors



- Possible actions can include:**
- A) Requesting an account from the officer(s), providing information and an explanation
 - B) Review CADs, Athena investigations, CCTV
 - C) Review Force policies/procedures
 - D) An apology on behalf of the Constabulary and/or the person complained of (who must agree to the apology)
 - E) The staff member to be given management action, in the form of words of advice
 - F) Learning shared with the Force

Appendix H – Appeals Guidance

What is an appeal?

An appeal offers a final opportunity to consider whether the complaint could have been handled better at a local level and, where appropriate put things right.

What is an ‘appropriate authority’?

An appropriate authority is the authority responsible for considering complaints and appeals. Who the appropriate authority is will differ depending on who the complaint is about. The appropriate authority is either:

- The Chief Officer of the police force (usually the Chief Constable), or
- The Police and Crime Commissioner responsible for considering complaints and appeals (if our complaint is about the chief officer or acting chief officer of the police force)

What is the relevant appeal body (RAB)?

The relevant appeal body is the organisation that will consider your appeal. It is either the chief officer of the police force (usually the Chief Constable) or the IOPC.

When you are told about the outcome of your complaint, the letter will explain whether you can appeal and, if so, who to.

Right of Appeal

The Police Reform Act (PRA) 2002 provides a right of appeal in respect of certain decisions and outcomes made in relation to a complaint. These are:

- A decision not to record a complaint or not to notify the correct appropriate authority (or failure to make a determination).
- A decision not to disapply the requirements of Schedule 3 of the PRA in relation to a complaint.
- The outcome of the local resolution of a complaint.
- The outcome of a complaint handled otherwise than in accordance with section 3 of the PRA.
- A decision to discontinue the investigation of a complaint.

Appendix I – Appeals Process

