

Key Messages:

The aim of this policy and procedure is to ensure consistency and fairness in the Essex Probation's response to complaints and to facilitate improvements in the provision of service where this is seen to be necessary.

The expectation is that wherever possible the process of dealing with a complaint will be managed at the "lowest" level within the organisation. All matters will be addressed through the informal process in the first instance and where possible resolved. Only where these can not be resolved informally will they be referred to the formal process.

If the complainant remains dissatisfied at the conclusion of these processes they can refer the matter to the Prison and Probation Ombudsman (PPO) or the Parliamentary Commissioner (PCA) for Administration via their MP for review.

The Policy

Policy Statement:

Under the Local Probation Boards (Miscellaneous Provisions) Regulations 2001 all local Probation Boards were required to make and publicise arrangements for dealing with complaints from prescribed people. Under secondary legislation effective from August 2009 complaints made to Probation Trusts can be referred to both the Prison and Probation Ombudsman (PPO) and the Parliamentary Commissioner for Administration (PCA).

Paragraph 12(1) of Schedule 1 to the Criminal Justice and Court Services Act 2000, relating to those arrangements for dealing with complaints under paragraph 18 of schedule 1 and regulation 6 of the Local Probation Boards (Miscellaneous Provisions) Regulations 2001 gave effect to this direction from 1 September 2001.

The PCA's remit is to investigate complaints from all members of the public (including offenders) who claim to have sustained injustice because of maladministration during the provision of a service by Government or other specified organisation acting on their behalf.

Essex Probation however, reserves the right to extend this provision in exceptional circumstances at the discretion of the Chief Executive. Such an extension of this provision will not include the right of access to the PPO (Prison and Probation Ombudsman) but may include the right of access to the PCA (Parliamentary Commissioner for Administration)..

Purpose:

The aim of this policy and procedure is to ensure consistency and fairness in Essex Probation's response to complaints and to facilitate improvements in the provision of service where this is seen to be necessary.

Application:

Summary

All complaints are recorded. Essex Probation's record of complaints is reviewed annually by the Board with a view to ensuring appropriate action has been taken both in individual cases and as an organisation where required.

The expectation is that wherever possible the process of dealing with a complaint will be managed at the "lowest" level within the organisation. All matters will be addressed through the informal process at the local level in the first instance and where possible resolved. Only where these can not be resolved informally will they be referred to the formal process.

Definitions:

Eligible Types of Complaint

To be eligible for consideration, complaints must arise from actions, decisions or failures to act or decide by Essex Probation, its members, employees, contractors, agents or volunteers.

Complaints will not be eligible for investigation under the complaints procedure if the subject matter is already subject to an investigation by the PPO or the PCA.

People eligible to make a complaint:

Complainants must register their complaint to Essex Probation within six months of the action, decision, or failure to act or decide, or could reasonably have been expected to know of the matter which is the subject of the complaint.

Those who qualify to lodge a complaint to the PCA have the right to submit a complaint, through an MP at any stage. However, the PCA will not normally consider a complaint until the complainant has used the organisation's complaint process. Complaints to the PCA must be made within 12 months of the date on which s/he first had knowledge of the matters giving rise to it.

All Complaints will be fairly considered irrespective of the complainant's race, gender, sexual orientation, age, class, disability or religion.

Those eligible to complain are:

➤ Category One – Offenders

This group can use one of three avenues for their complaint:

1. The process within Essex Probation
2. The Prison and Probation Ombudsman
3. To the PCA via a Member of the House of Commons (an MP)

- people in respect of whom Essex Probation has had responsibility for writing a pre-sentence report.
- people convicted of offences who are, or have been, under the supervision of Essex Probation or who are or have been provided with accommodation in premises approved by the Secretary of State in accordance with section 9 of the Criminal Justice and Court Services Act 2000.
- the immediate family of a person falling in the categories above where that person has a serious medical impairment which prevents them registering the complaint or has died (for this purpose "immediate family" means the parents, legal guardian, partner, siblings or children of that person).

- those who have the written authority to act on behalf of the above.

Category Two – Victims

This group can use one of two avenues for their complaint.

1. The process within Essex Probation
2. To the PCA via a Member of the House of Commons (an MP)
 - victims of people convicted of offences who are, or have been, under the supervision of Essex Probation or who are or have been provided with accommodation in premises approved by the Secretary of State in accordance with section 9 of the Criminal Justice and Court Services Act 2000.
 - people who have suffered physical injury or distress or theft or damage to their property as a result of the conduct of a person subject to a community order or released from prison on licence whilst undertaking activities under the supervision of an officer of Essex Probation.

Category Three – Members of the Public

This group can use one of two avenues for their complaint.

1. The process within Essex Probation
2. To the PCA via a Member of the House of Commons (an MP)

Responsibilities:

Formal complaints will be managed by the Chief Executive. Authority to adjudicate will normally be delegated to an off-line Director except in more serious cases, or where the complaint relates to a Director the matter will be adjudicated by the Chief Executive. Investigations will be conducted by an off-line local manager or appropriate independent person. The seriousness of the complaint will be judged depending on the nature of the complaint and/or the potential impact on the individual and/or Essex Probation.

Where complainants are not satisfied with the findings of the investigation, the Chief Executive will adjudicate an appeal. If the Chief Executive has adjudicated on the formal complaint an appeal panel will be convened with members of the Board.

If the complainant remains dissatisfied at the conclusion of these processes they can refer the matter to the PPO for review.

Procedure:

Informal stage

NB – it is not necessary or desirable for informal complaints to be in writing. Every effort should be made to resolve the complaint by either telephone or in person discussions.

For informal complaints the local manager will :-

1. log the informal complaint on the complaint register
2. inform the member(s) of staff whose actions or sphere of activity are the subject of the complaint and keep them informed
3. review the background to the case
4. arrange to meet the complainant
5. review the complaint with the relevant member(s) of staff

Appropriate efforts should be made to come to an agreeable solution through conciliation, negotiation and discussion.

Having completed this process the local manager will write to the complainant outlining the outcome of the informal discussions that have taken place but include in the letter the right of the complainant to refer the matter for formal consideration should they remain dissatisfied. The complaints register will be updated.

Where the complainant remains dissatisfied at the outcome of the informal stage, they should be advised to give written notice of formal complaint within 10 working days of receiving the local manager's letter. The formal complaint should be addressed to the Chief Executive.

Formal stage

Formal complaints are required to be made in writing, and to be signed by the complainant wherever this is practicable or in any event their consent for a third party to act on their behalf is required. Where necessary a member of staff will assist with the writing of the complaint.

Formal complaints must be made in accordance with the time limits stated in this policy and procedure.

All formal complaints will be directed to the Chief Executive.

The Chief Executive is responsible for ensuring that the complaints policy and procedure is complied with and that complaints and appeals are recorded on the Register, acknowledged and monitored.

Formal Process

The Chief Executive will:

1. Confirm the eligibility of the complaint.
2. Confirm that the complaint has already, where possible, been dealt with through the informal process.
3. Ensure the complaint is recorded on the register.

4. Where practicable, within five working days of receipt, acknowledge the complaint and, where it is eligible for investigation, inform the complainant of the name of the adjudicating officer.(see model letter contained in this policy).
5. Inform the member(s) of staff whose actions or sphere of activity are the subject of the complaint and keep them informed (see model letter contained in this policy).

The Chief Executive will allocate the complaint to the Local Delivery Unit Director for adjudication. The investigation will be carried out by a nominated local manager who will provide a report to the Director for them to determine the outcome and reply to the complainant. The appropriate pro-forma will be used. Where the complaint relates to a local manager, Director or is determined to be so serious in nature to warrant it, the complaint may be adjudicated by the Chief Executive. In these circumstances investigations will be conducted by an appropriate independent person.

Where the complaint relates to an individual whose actions could constitute disciplinary breaches, the investigation will be carried out within the Capability/Disciplinary Policy and Procedure from the point at which this is identified. This ensures that the individual has appropriate representation at interview and also that should there be a need for a disciplinary hearing/sanction it is not necessary to reinvestigate the matter.

Please refer to the Capability/Disciplinary Policy and Procedure for further guidance on process.

Where the complaint does not indicate a breach of discipline, the investigating officer will, using the guidance for conducting investigations and interviews set out below:

1. Review available background to the case.
2. Arrange to interview the complainant.
3. Review relevant records and correspondence.
4. Arrange to interview relevant members of staff.

The investigating officer will complete the investigation within 20 working days and will report her/his findings using the Standard Report format. Both the final report and the investigating officer's log of contacts/actions during the complaint process should be submitted to the adjudicating Director. If there are circumstances which prevent this timescale being met s/he will set out the reasons for delay and inform the adjudicating officer.

Within 5 working days of the report's completion the adjudicating officer will write to the complainant informing them of the outcome or where there is a delay, the reasons together with a revised timetable. Copies of all documentation should be provided immediately to the Chief Executive's PA, who will update the register.

Complainants are informed, at the time they are notified of the outcome, that they may appeal in writing if they are not satisfied within 10 working days of receipt of the outcome, and that they must state the reasons for their dissatisfaction. They should be informed of the purpose of appeal as set out below.

Members of staff will be informed of outcome via the line manager who will receive a copy of the outcome letter.

Appeal stage

Appeals will be made to the Chief Executive, in writing and signed by the complainant wherever practicable. The Chief Executive will normally acknowledge receipt of the appeal within five working days (see model letter contained in this policy).

The purpose of the appeal process is not to review the whole complaint in detail, but to ensure that the process of investigation and adjudication has been conducted appropriately.

The Appeal will be recorded in the register.

The Appeal will normally be adjudicated by the Chief Executive. If the Chief Executive has adjudicated on the complaint this will be referred to a member of the Board.

The complainant will not normally be invited to attend the appeal. However, in exceptional cases the Chief Executive/Board may chose to do so if it is judged that attendance of the complainant will assist the process.

The outcome of the appeal will be sent in writing to the complainant within 20 working days or if this cannot be met the complainant notified in writing of the reasons for the delay.

Prisons and Probation Ombudsman

Individuals who are, or have been, under the supervision of the Board, or housed in Probation accommodation or who have had pre-sentence reports prepared on them by the Board and who have failed to obtain satisfaction having been through the full complaints process, may put their complaint to the PPO.

INVESTIGATION AND INTERVIEW GUIDANCE

BEFORE THE INVESTIGATION IS UNDERTAKEN

1. Keep an open mind on the basis that the matter complained about may or may not have happened.
2. Consider the facts available carefully in the first instance and gain some initial information regarding the issues of concern.
3. Consider whether any of the parties involved will require any special help which you will need to address, for example language difficulties, whether those you need to interview have poor sight or hearing difficulties.
4. Make arrangements to ensure the confidentiality of any letters and reports you produce.
5. Recognise that it is important for the investigation to be undertaken as speedily as possible without detracting from thoroughness. The policy requires you to report within 20 working days.
6. Wherever possible interview the person initiating the complaint first. This will enable you to establish the exact nature of the investigation.
7. Create a “log” of contacts/actions during the complaint process and keep this up to date. See below for example:

Date	Action/Contact Taken by Investigation Officer	Investigating Officer Initials

INTERVIEWING THE COMPLAINANT

1. Ensure that you fully explain your role to the complainant before commencing the investigation
2. Depending upon the nature of the complaint establish what outcome the complainant would expect.
3. Allow sufficient time for the interview to enable you to gather all the facts and for the complainant to be satisfied that you are taking their complaint seriously.
4. Explain the time scales involved and where delays occur ensure that they are kept informed.
5. Take notes of the interview.
6. Advise the complainant of the process that the investigation will follow.
7. Ask the complainant if there are any individuals who they wish you to interview who would substantiate their complaint but explain that you retain the discretion to choose who you will interview.
8. If the investigation reveals issues which could lead to disciplinary action being appropriate then you should note this in your report.
9. Prepare a chronological statement of key facts and events. Where this is particularly complex send it to the complainant for checking.
10. Keep to the issues involved in the complaint and do not get side-tracked.
11. Keep an open mind - test out your hypothesis - substantiate your opinions with facts.
12. Keep a careful record of all interviews. Ensure that contemporaneous notes are kept in case they are required for scrutiny at a later date.

CONDUCTING THE INVESTIGATION

Enter all dates, actions contacts on the log created.

Prepare a list of those people you wish to interview as a result of the complainant's statement.

Determine whether the complaint, if upheld, may be likely to result in disciplinary or capability action. Ensure that you take account of Essex Probation Board's Disciplinary and Capability Policy when conducting and recording any interviews arising. In particular:

1. Ensure that employees who provide statements are aware that their statements may be produced as evidence and must be available for any hearing which may be convened
2. It is an expectation that all employees attend a Hearing where required to do so to enable questions to be asked concerning their evidence.
3. If third parties are interviewed they should be made aware that their statements may be disclosed.

4. Prepare a formal typed record of the interview from your written notes as soon as possible while your memory is fresh. Normally this should be no later than the following day.
5. Arrange for a copy to be sent to the interviewee and ask them to sign their copy as an agreed record. This may be then be used as their statement.

Ensure that where appropriate, employees are given the opportunity of being accompanied by a representative of their choice. It is not appropriate for the representative to contribute to the interview. Their role is purely a supportive one.

Where pertinent, ask for documentation to back up any statements made.

To enable you to undertake your investigation you will have the right of access to all relevant files, documents etc relating to the complaint. Insist on seeing originals, not copies and obtain copies of all documents that are needed.

Ensure that you examine all relevant policies, procedures, legislation etc.

Conduct interviews in a relaxed but formal manner. Do not be afraid to ask the same question twice to obtain the answers. Make notes of each answer given.

Try to separate fact from opinion by asking interviewees how they know particular information.

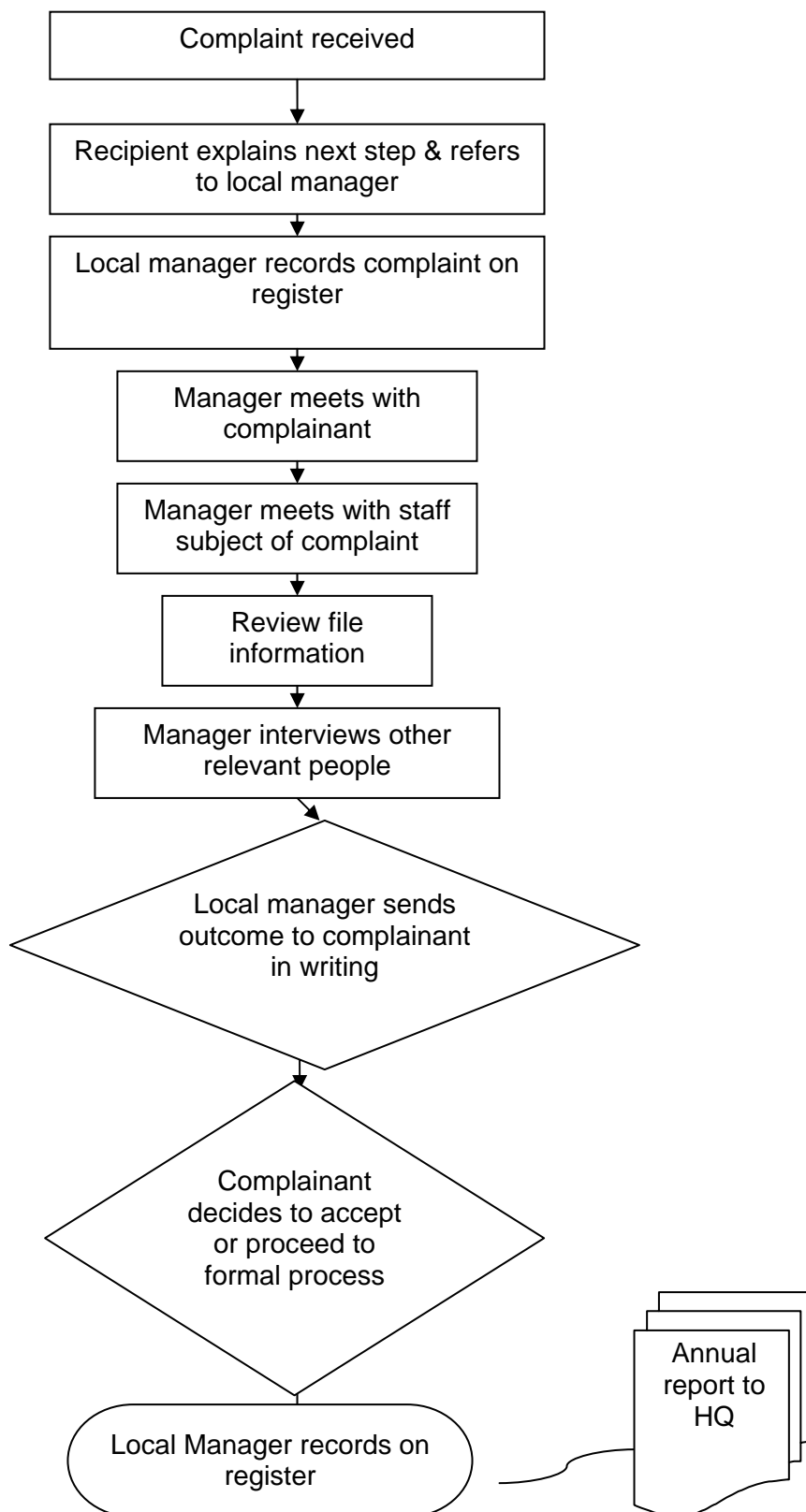
Deal with conflicting evidence by seeking corroborative evidence.

At the end of the interview summarise the key points covered by the interviewee and ask if they have anything further to add.

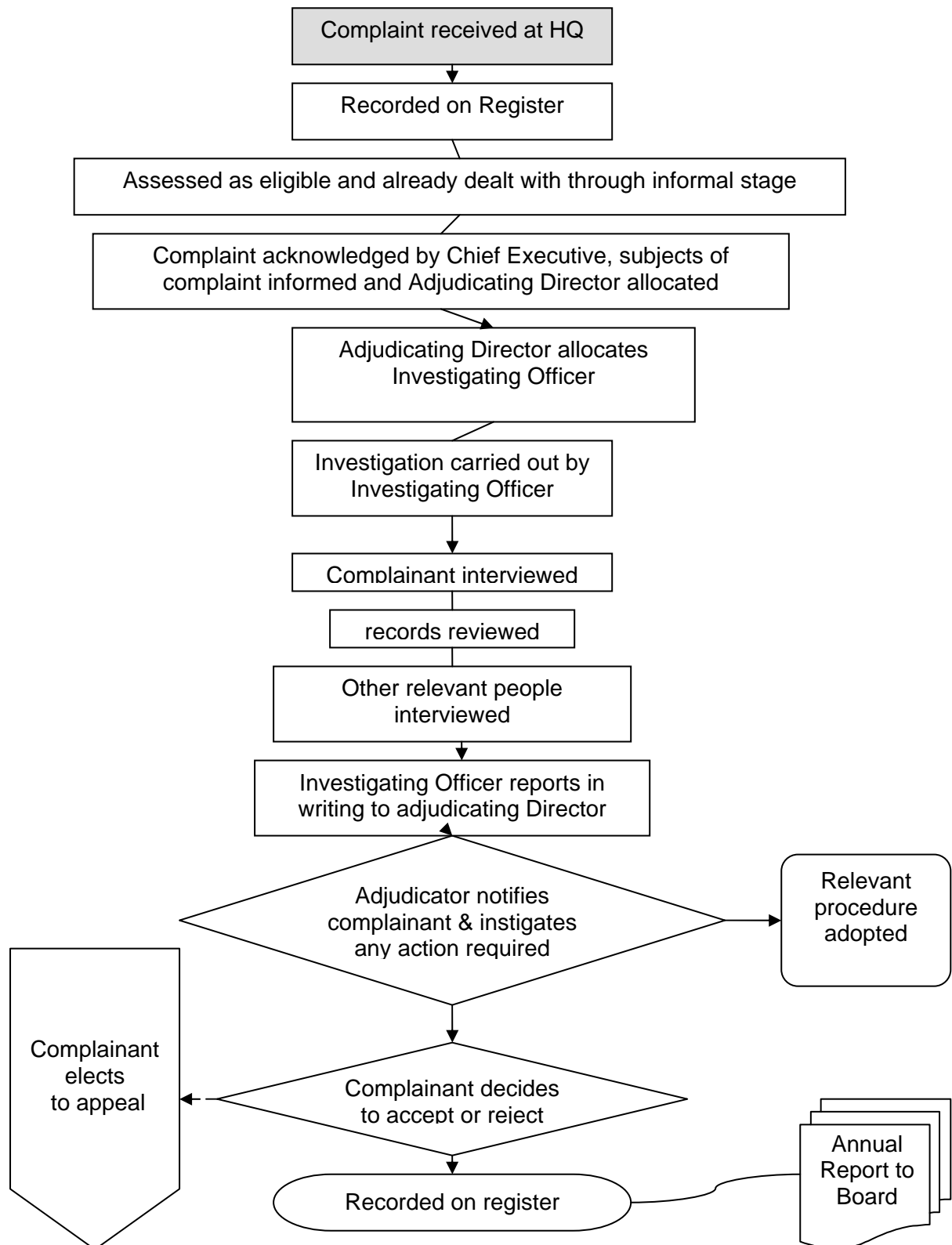
REPORTING YOUR FINDINGS

1. Keep to the facts when writing your report. Try to avoid any statements which are subjective.
2. Avoid jargon and abbreviations.
3. Findings should be listed in a clear and simple way, referencing each section or complaint.
4. Attach all supporting documents including the log of your actions during the investigation.
5. Label all supporting documentation clearly.
6. Do not form a judgment in the conclusion of the report this is for the adjudicating officer to determine.

Informal Stage



Formal Stage



STANDARD REPORT & ANNEX FORMAT

Essex Probation

Complaint Investigation

NAME OF COMPLAINANT

Final Report

UNDERTAKEN BY

DATE

Nature of complaint

Background

The Issues

Desired Outcome

Action Taken

Conclusions

Name of Report Writer

Letter to complainant acknowledging receipt of formal complaint and allocation of complaint to adjudicating Director/independent investigator

Our Ref

Date

Address

Dear

COMPLAINT

I acknowledge receipt of your letter dated xxx, which I received on xxx.

In line with our Complaints Policy I have allocated your complaint to [adjudicating officer, title] in order that s/he can adjudicate following further formal investigation.

[Adjudicating officer] will write to you to advise the outcome when s/he is in receipt of the investigation report.

Yours sincerely

Chief Executive

cc Adjudicating Officer

Letter to staff member advising subject to complaint

Our Ref

Date

Addressee Only - Personal & Confidential

Name

Local Office

Dear

COMPLAINT

I am writing to inform you I have received a complaint relating to yourself, a copy of which is enclosed.

Please be advised I have allocated the complaint to [adjudicating officer, title] for adjudication and you may be required to be interviewed as part of the process.

[Adjudicating officer] will arrange for your line manager to advise you of the outcome once the investigation is complete.

Yours sincerely

Chief Executive

cc Adjudicating Officer
LDU Director
Line Director
Manager – Offender Management

Letter to staff member advising outcome of complaint

Our Ref

Date

Addressee Only - Personal & Confidential

Name

Local Office

Dear

COMPLAINT

I write further to my letter dated xxx regarding the complaint received from the above named.

I have now received [investigating officer] report and advise that the complaint is [upheld/not upheld].

A copy of my outcome finding letter to [complainant] has been sent to your line manager, [line manager], who will arrange to discuss this with you.

Yours sincerely

Adjudicating Officer

cc LDU Director
Line Director
Manager – Offender Management

Letter to complainant acknowledging receipt of appeal

Our Ref

Date

Address

Dear

I acknowledge receipt of your letter dated xxx, which was received on xxx.

In line with our Complaints Policy, the Appeal will be heard by [chief executive/board member].

Once the Appeal has been heard, I/the board member will write to you to advise you of the outcome, which will be no later than [date].

Yours sincerely

Chief Executive/Chief Executive's PA