**ADULT SOCIAL CARE COMPLAINTS - GOOD PRACTICE ON INVESTIGATIONS FOR INVESTIGATING OFFICERS**

***General Points***

1. Be aware of the six week timescale and the importance of providing a thorough investigation;

2. Where the complainant is acting on behalf of the service user and consent has been gained (usually by the customer relations team), check the validity of the consent with the service user and confirm their agreement for the complainant to act on their behalf and to their information being shared with the complainant for the purposes of the complaint;

3. For complaints which involve another local authority or organisation (e.g. NHS, provider) consideration should be given to whether a joint investigation is required – contact the Customer Relations Team for guidance;

4. Work closely with the Customer Relations Manager and advocate (where appropriate) on all aspects of the investigation and report writing including keeping the complainant informed of progress;

5. If the media is involved (e.g. local / national press, television or radio) notify the Customer Relations Manager and maintain strict confidentiality;

6. Consider the environment the investigations are conducted in – some places may be intimidating or distressing for complainants, consider any risk to staff wellbeing;

7. Question whether an unannounced visit to the establishment complained to check normal practice would be helpful; and

8. Adhere to relevant conventions and legislation such as Data Protection Act, Health and Safety Act and the Human Rights Act and the United Nations Convention on the Rights of the Child. Including adult social care complaints legislation – The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009;

9. As the Investigating Officer, you are independent and your report needs to be balanced and is not written in defence of the local authority.

***Getting Started***

Please refer to the supporting guidance documents:

* appendix one investigating officer flow diagram
* appendix two complaint investigation plan
* appendix three tool for summarising and comparing information.

10. Where the complainant is acting on the service user’s behalf of the service user, the customer relations team will have, in most instances, already have gained consent of the service user for a representative to act on their behalf and provided a copy of the signed consent form in the complaint allocation email. The investigating officer’s role is to make contact with the service user to check the validity of the consent with them and confirm their agreement for the complainant to act on their behalf and to their information being shared with the complainant for the purposes of the complaint.

However there maybe instances where the customer relations team will instruct the investigating officer to gain consent of the service user. In these instances it is the role of the investigating officer to gain consent. Further advice can be sought from the customer relations team on these instances;

11. Contact the complainant, ideally by phone, to offer a meeting in person. The complainant will be expecting your call as the customer relations team have already informed the complainant of the allocation and the name of the investigating officer. Inform the Customer Relations Team of the date of the visit. This meeting should explain the investigation procedure and;

a. allow the complainant to explain how they feel and express any strong emotions – they should feel as if their complaint has been accepted;

b. clarify the complaint and all its individual parts and produce a written

record; avoid using questions to determine a complaint

ie. Question ‘Why was I not consulted as part of the assessment process.’ Complaint point – ‘I was not consulted during the assessment process.’;

c. ask what the complainant wants in terms of solution or outcome – these need to be realistic and achievable by the council;

d hear the complainant’s view of what the complainant says went wrong from their point of view and the impact they say it has had on them;

e. check whether the complainant needs support of any kind, in order to understand the discussion properly; and

f. determine whether the complainant needs support during the process e.g. an advocate;

g. the written record of the complaints and agreed outcome should be sent to the complainant who should be requested to return a signed copy confirming their agreement. A copy should be returned to the

Customer Relations Team. The complaint investigation cannot commence until you have received the signed copy of the complaints from the complainant;

h consideration should be given to capacity and consent from the service user – if this is considered an issue, advice can be sought from the Customer Relations Team

12. Contact Customer Relations team if at any point it becomes apparent the complaint involves another local authority or organisation (e.g. NHS, provider) to consider whether a joint investigation is required. If the complaint is about services from another provider and local authority (NHS), a joint investigation and joint report will be provided to the complainant. Both investigators will agree the exact nature of the complaints with the complainant and establish which aspects of the complaints are separately and jointly dealt with. Please liaise with CRT if it becomes apparent the complaint involves another local authority or organisation (e.g. NHS) to consider whether a joint investigation is required.

13. Read background on the complaint and the relevant legal and administrative policies and procedures;

14. Consider whether the complaint could be resolved without further investigation; and

15. Assess whether the complaints procedure is the most appropriate way of handling this complaint. Consider alternative possible procedures, for example alternative dispute resolution (such as mediation), appeals to tribunals, legal action and police involvement. If the complaints procedure is not appropriate, discuss the alternatives with the Customer Relations Manager.

***Planning the Investigation***

16. Decide what information is needed to evaluate the complaint – this could include client/management records, legislation/policy/practice guidance/regulations (national or local) and reports relevant to the complaint context. If there is no clear policy guidance or written definition of standards you will need to talk to senior managers or staff to gain knowledge of local custom and practice. Obtain all relevant documentation needed – most information is held electronically but could also including original versions of documents such as files, log books and timesheets; The tool, detailed at appendix one, can be used to assist in collating and summarising information collected in relation to complaint points.

17. Produce a chronology of the sequence of events from the recorded information available and also identify the names of the individuals most directly involved in content of the complaint;

18. Analyse and categorise the complaint into its different elements;

19. Identify a list of interviewees – when interviewing members of staff you should inform their line manager first as they may hold information not known to yourself that may dictate the format for the interview, they may also wish to discuss this with the member of staff before you make contact with them. Notify the interviewees that you wish to hold interviews giving them as much notice as possible. Supply them with relevant information (only the elements appropriate to them) on the complaint in advance of the interview; interviews should be undertaken face-to-face, however, in some instances interviews may be conducted via telephone conversation;

20. Arrange the order of interviews in a logical sequence as relevant to the particular complaint; inform the Customer Relations Team if staff are not available for interview as this may delay the complaint response;

21. Where staff are found to have left the authority, the Investigation Officer should make contact with relevant service area managers/team manager to establish if they have the staff members contact details. The Investigating Officer should then telephone or write to the employee requesting their consent to be interviewed. Where the service area does not have the contact details, the investigating officer should communicate to the customer relations team the names and team of the ex-employees who will then make a request to the head of service for their approval for HR to provide the contact details. The customer relations team upon receipt of the contact details from HR, will communicate these to the Investigating Officer, who can them make contact with the ex-employee making their request to interview. Investigating Officers should be reminded of the importance of considering interviewing employees from other agencies, seeking consent from the complainant to do so. Support and guidance can be provided by the customer relations team;

22. Inform all those to be interviewed that they may be accompanied by a friend or trades union representative, provided that this person is not within normal line management arrangements with the interviewee and that there are no issues of confidentiality;

23. Consider whether a witness of a particularly difficult interview is needed – this is also a good way of training new investigating officers; and

24. Prepare the line of questioning for each interviewee.

***Interviewing***

25. Explain the complaint and your role clearly to the interviewee and confirm that they understand the complaints procedure and their role in it;

26. Conduct the interviews in an informal and relaxed a manner, while ensuring that due process is adhered to;

* use open not leading questions;
* do not express opinions in words or attitude; and
* ask single not multiple questions, i.e. one question at a time;

27. Try to separate hearsay evidence from fact by asking interviewees how they know a particular fact;

28. Persist with questions if necessary. Do not be afraid to ask the same question

twice. Make notes of each answer given;

29. Deal with conflicting evidence by seeking corroborative evidence. If this is not available, discuss with the Customer Relations Manager the option of a meeting between the conflicting witnesses; and

30. Make a formal record of the interview from the written notes as soon as possible while the memory is fresh. Show the interviewee the formal record, ask if they have anything to add, and ask the interviewee to sign the record as accurate. Provide the interviewee with a copy. Explain who will see your report and confidentiality issues.

***Dealing with recorded evidence when investigating a complaint***

31. The following guidance applies if a complainant wishes an investigating officer to consider a recording of a conversation, meeting or incident. A recording may include voices and/or moving images. Examples include voice recordings, video recordings and CCTV.

* Complete recordings will only be considered. The entire conversation, meeting or incident must be presented as evidence. Partial recordings, ‘snippets’, or highlights will not be considered;
* Everyone in the recording should be clearly identified;
* The time and date the recordings was made should be included;
* It is expected that anyone recorded would have been made explicity aware that they were being recorded. Discretion will be used if a recording has been made covertly or without the consent of everyone involved and will only consider such evidence if there is compelling reason to do so;
* Once the recording has been listened to or watched any recorded evidence, the investigating officer has discretion to decide whether the recorded evidence is relevant to their investigation. It may be considered along with all other relevant evidence in the case;
* Copies of recordings sent to East Riding of Yorkshire Council as part of a complaint will be retained in line with the Council’s retention policy.

***The Investigation Report***

32. A report is a presentation of facts and findings, usually as a basis for recommendations, written for a specific readership, probably intended to be kept as a record. The investigation report represents in writing a statement of the allegations, the findings of the investigator and a statement of conclusions drawn from the investigation. Organisation, conciseness, clarity and accuracy are hallmarks of a good report. The written report will represent all relevant aspects of the investigation and be objective, accurate, understanding, logically organised and timely.

33. Conciseness – the investigating officer should remember that the best report tells the complete story in as few words as possible. After preparing the first draft of the report, the investigating officer may find the need to revise it for the purpose of eliminating redundant or unnecessary phrases or words.

34. Accuracy – the written report should clearly record or reference all pertinent interviews and observations. Information obtained during an investigation should be verified by as many sources as are necessary and reasonable to establish the validity of the information. Investigative reports should not contain personal opinions or views.

35. Draft your report (using the template provided and sample report) and send it to the Customer Relations Manager and adjudication officer for review prior to the adjudication meeting date. The Customer Relations Manager will advise on local practice.

File names are an important part of organising, sharing and keeping track of changes. Standard naming convention should be adopted and strict version controls should be used to ensure that where amendments are made it is easy to keep track of these and to be able to identify which is the latest version of the report. Until the report is finalised ‘draft’ should be in the file name. Only at the point the report is finalised and agreed should this be replaced with ‘Final.’ The year and unique complaint reference number should be detailed in the file name, not the service user’s name. For example:

* ASC 2019-20 123456 Investigation Report – v1.0 Draft
* ASC 2019-20 123456 Investigation Report – v1.1 Draft
* ASC 2019-20 123456 Investigation Report – v1.2 Final
* ASC 2019-20 123455 Adjudication Response – v1.0 Final

The draft report should include:

* Chronology;
* List of interviewees;
* The complaints set out in a numbered list;
* Your analysis and findings for each point of complaint – rational for the

findings made;

* A record of relevant policy, practice and legislation;
* Your recommendations and response to the complainant’s desired

outcomes;

* Any other relevant information; and
* A separate addendum for any other issues for the local authority which is

not shared with the complainant (e.g. management report containing

recommendations and any actions, a lessons learnt report and action plan

on how findings can inform practice);

36. Notify the Customer Relations Manager once the report is complete and send the Customer Relations Team and adjudication officer a copy.

37. The Customer Relations Team will arrange for an adjudication meeting to be held and a senior service manager will be appointed as the adjudication officer.

38. The role of the adjudication officer is to consider the complaints, the investigating officer’s findings, conclusions, recommendations and the complainant’s desired outcomes whilst taking ownership of the action plan. The adjudication officer will consider areas where it has been found the local authority is at fault, whether this caused injustice to the complainant and whether it is appropriate to offer a remedy payment appropriate to the level of injustice caused. Consideration should be given the LGO guidance on payment remedies. Any payment remedies identified should be discussed between the adjudication officer and the head of service to gain approval. Where a recommendation relates to the waiving or reduction of fees in relation to a financial issue, the recommendation contained within the Investigating Officers report should be this is taken to Charging Review for sign off.

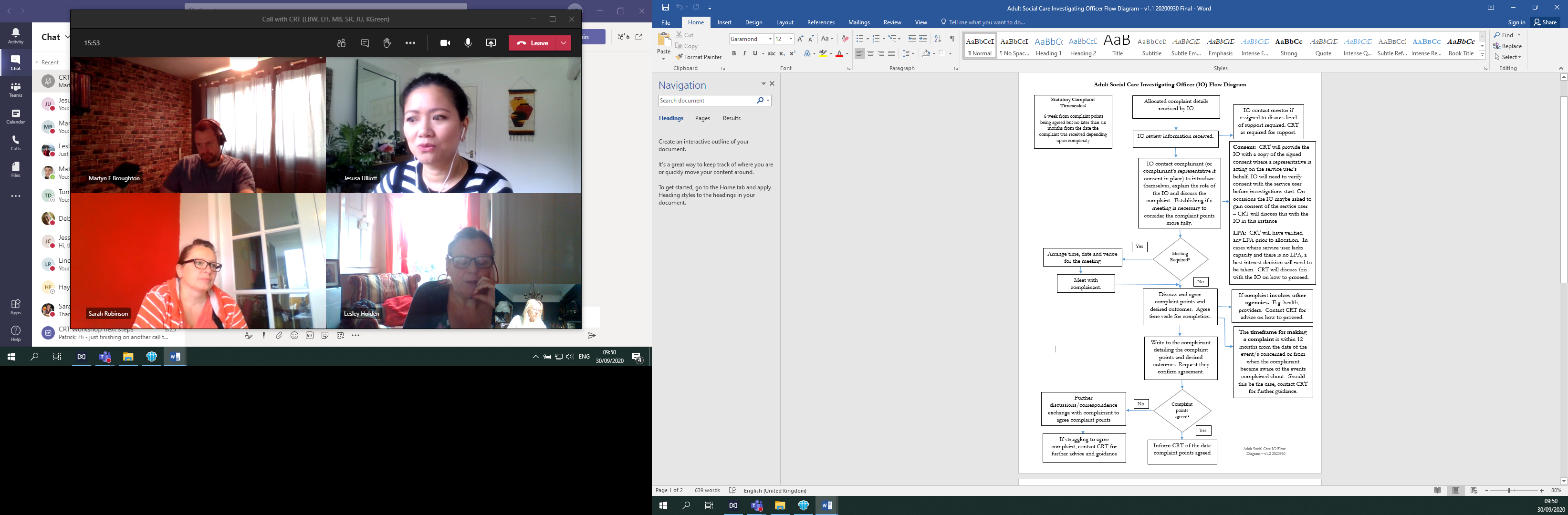
39. Following adjudication, the investigating officer will make any identified amendments to the report, liaising with the adjudication officer as necessary, and send the Customer Relations Team a final copy of the report once agreed.

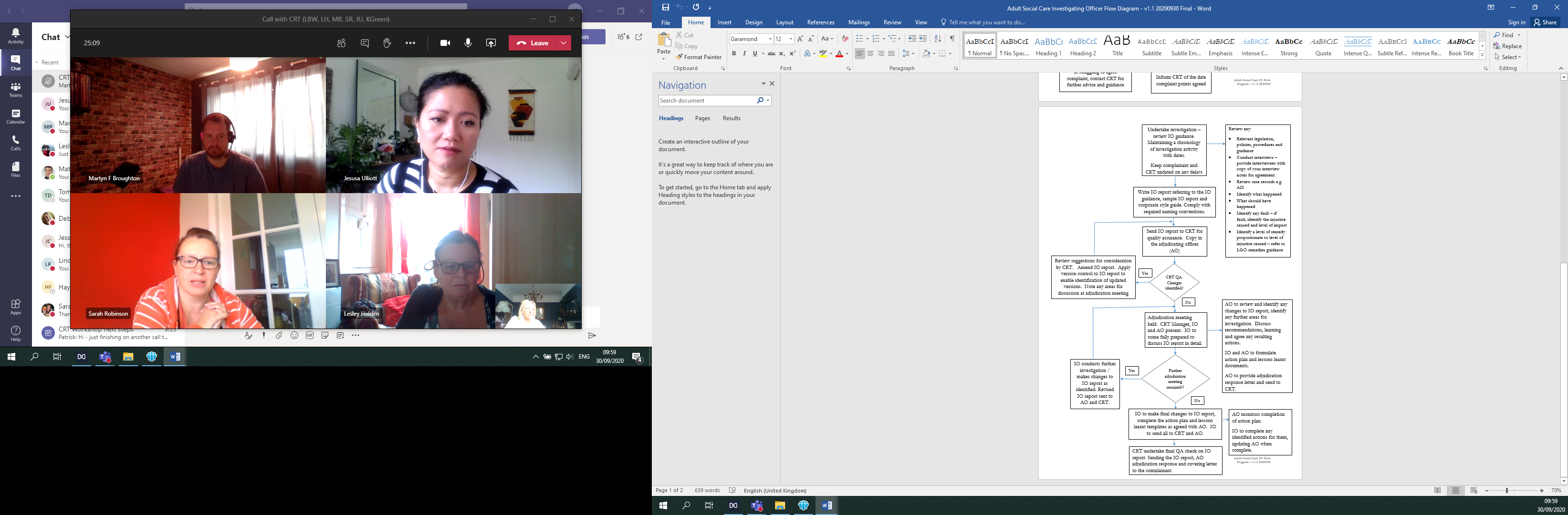
40. Customer relations team will send the final report to the complainant along with the adjudication officer’s report.

41. The Investigating Officer and Adjudicating Officer will liaise on the completion of an action plan and lessons learnt from where appropriate, identifying those responsible for taking the actions detail. The adjudicating officer is to ensure that actions are monitored and completed in the identified timescales.

42. Where the complainant is offered a payment remedy and communicates they wish to accept the payment offered, the Customer Relations Team will action the payment advising the adjudicating officer, investigating officer and gain confirmation from the head of service prior to the payment being actioned. The Customer Relations Team will contact the complainant to identify their preferred payment method and relevant details to enable the payment to be made.

**Appendix One – Adult Social Care Investigating Officer Guidance Flow Diagram**





**Appendix Two – Adult Social Care – Complaint Investigation Plan**

**Adult Social Care – Complaint Investigation Plan**

[Amend as required]

|  |  |
| --- | --- |
| **Investigating Officer** |  |
| **Adjudication Officer** |  |
| **Mentor** (if applicable) |  |
| **Key points of the complaint.** |  |
| **Desired outcomes** |  |
| **Provisional time-frame.** This may change as the investigation progresses, key is keeping the complainant updated on delays. |  |
| **Authority to act/Consent.** If complaint is being made on behalf of the service user – verify authority to act.   * Consent in place and verified * LPA (H&W, Finance) verified * Best Interest decision made to proceed |  |
| Any ongoing **concurrent investigations** – LA has discretion not to commence complaint investigations where to proceed would compromise a concurrent investigation.E.g. Safeguarding Investigations. |  |
| Any **external organisation, care provider**, where possible joint investigation maybe required. |  |
| **Contact with complainant** to introduce self, explain complaint process, possible timescales and arrange date to discuss complaint further if required. |  |
| **Complaint meeting with complainant to discussed complaint** (if required) |  |
| Written **complaint points and desired outcomes sent to complainant** |  |
| **Complaint points and desired outcomes agreed** with the complainant. |  |
| Relevant **legislation, policies, procedures and guidance** to review and follow. |  |
| **Review relevant case management records** e.g. AIS |  |
| **Chronology** – compile chronology of key events of the case. From the LA perspective, from the complainant’s perspective to allow comparison of events. |  |
| **Issues that need to be explored/clarified** |  |
| **Additional sources of evidence to be collected** |  |
| **Persons to be interviewed –** Contact the interviewee’s line manager to inform them you will be approaching their staff member,prepare questions prior to interviews, send those to be interviewed element of complaint relevant to them, plan the order of interviews. After interview type up notes and send to interviewee for agreement. |  |
| **Investigation meetings Dates**  When/where |  |
| **Investigation notes sent** |  |
| **Investigation notes agreed** |  |
|  |  |
| **Deadline date for report to be sent to CRT and Adjudication officer** (five days prior to adjudication meeting date) |  |
| **Adjudication meeting date** |  |
| **Final amendments made following feedback** |  |
| **Action plan and lessons learnt** completed where appropriate |  |

**Appendix Three – Tool for summarising and comparing information.**

**Grids and Tables can be a useful way of summarising and comparing information.**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Complaint:** | | | | | | | |
| **Complainant says:** | **Relevant legislation, policies and procedures say:** | **Interviews with relevant officers say:**  **Officer A:**  **Officer B:**  **Officer C:** | **Evidence from departmental records (AIS, CCM, etc) say:** | **What happened:** | **What should have happened – identify fault:** | **Where fault identified – identify the injustice caused and level of impact:** | **Suggest a level of remedy proportionate to level of injustice caused:** |