

# A step-by-step guide to making a complaint about health and social care





## Step by step

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## Are you concerned about something that is happening **now**?

The aim of the NHS complaints procedure is to help you get things put right as quickly as possible, so that you are able to continue with your healthcare without unnecessary worry or concern.

The complaints procedure says that if your concern is about current care or treatment your best option may well be to resolve the issue informally using one of the following routes:

- Speak to a member of staff directly involved with your treatment, or their manager. This is often the quickest way to put things right and stop them getting worse.
- If your complaint concerns hospital treatment, please speak to the Patient Advice and Liaison Service (PALS) - PALS provides information, advice and support to patients, families and their carers and can help you get answers to your questions quickly. PALS is run by NHS staff. For more information, please ask the person who is treating you.

## Do you need to make a **formal complaint**?

The formal NHS complaints procedure may be the best route to follow if:

- You have raised your concerns but they have not been resolved fully
- What happened raises serious questions about standards of care
- The issues involved concern more than one organisation
- You wish to raise complex issues.

*I'm worried about my mother's standard of care in her NHS care home.*

## About this leaflet

Most people are happy with the care they receive from the NHS, but sometimes things don't go as expected. Everyone has a right to complain if they feel something has gone wrong, and the NHS has a complaints procedure which can help you to get the answers and explanations you may have been seeking.

This leaflet is intended to provide you with a straightforward description of the NHS complaints procedure and provides some tips about how to use it, should you need to.

You can use this document to help you make a complaint by yourself or you can refer to it as you work through your complaint with your ICAS advocate. If you want to find out more about the NHS complaints procedure you can refer to The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

You can find links to the regulations by visiting the Department of Health's website:

[www.gov.uk/government/organisations/department-of-health](http://www.gov.uk/government/organisations/department-of-health)

## What is covered by the NHS complaints procedure?

The NHS complaints procedure applies to all services provided or funded by the NHS including GPs, hospitals, pharmacies, opticians, the ambulance service and any NHS social care (including nursing home or home based care) that you might receive.

You can also use the NHS complaints procedure if your complaint covers both health and social care, and to complain about NHS funded nursing home care or a home based care package which is funded by the NHS.

You cannot use the NHS complaints system for complaints that are about:

- Social care alone or other services provided by the council
- Privately funded health, nursing home or home based care
- Personnel matters, such as getting staff disciplined
- Legal issues and claims for compensation
- Contractual matters and consultations about service changes.

## Who do I complain to?

In general, if your complaint is about an NHS trust such as a hospital, a mental health service provider, a community services provider or ambulance service, contact the complaints manager or the chief executive.

It is always best to get hold of a copy of the local complaints procedure as this will set out who is responsible for what and how the system works locally. The person providing your care should be able to give you details of the complaints process or information about the right person to contact. Alternatively you can ring the organisation and ask to speak to the person who handles complaints or look on their website for information.

If your complaint is about a family health practitioner (GP, dentist, optician, pharmacist) or staff employed in these services such as health centre staff or practice nurses, then contact the practice manager and ask for the person in charge of complaints for that particular NHS organisation.

If your complaint is about an independent NHS contractor e.g. a service provided for NHS patients in a privately run facility, ask them for details of how to make a complaint, or approach the relevant commissioner. The organisation you wish to complain about should be able to tell you who this is. If you have difficulty finding out about the local process, contact us and we will help you. If you can, it is usually best to make your complaint in writing, by letter or email. If you do not feel able to do this you can ask to talk to the complaints manager either in person or on the telephone. The complaints manager should make arrangements for a written record of your complaint to be made and a copy should be provided to you.

*Can I complain about my dentist's lack of aftercare?*

## Who can complain?

You may complain about your own care and treatment or a service failure that has affected you.

You can also complain on behalf of:

- Someone who has died
- A child
- Someone who cannot complain for themselves because of
  - Physical incapacity or
  - Lack of capacity within the meaning of the Mental Capacity Act 2005
- Someone who has asked you to do so provided they give their written consent.

If complaining on behalf of a child, the organisation can only consider the complaint if they are satisfied that there are reasonable grounds for you to make the complaint instead of the child. If they are not satisfied, the organisation must notify you in writing, and state the reason for their decision. In addition the organisation has to be satisfied that the complaint is in the best interests of the child. Similarly, the organisation has to be sure that complaints made on behalf of people who lack mental capacity are in their best interests. If they decide not to investigate the complaint they must let you know this, and the reasons why, in writing.

## What to expect of the complaints procedure?

The NHS Constitution says you have the right to:

- Have your complaint dealt with efficiently and for your complaints to be properly investigated
- Know the outcome of any investigation into your complaint
- Take your complaint to the Health Service Ombudsman if you're not satisfied with the way the NHS has dealt with it.

A set of principles has been set out by the Health Service Ombudsman, which the Ombudsman believes public bodies should adopt when delivering good customer service, and when things go wrong.

The six principles are:

- Getting it right
- Being customer focused
- Being open and accountable
- Acting fairly and proportionately
- Putting things right
- Seeking continuous improvement.

The Ombudsman will use these principles in considering your case. You can find the principles on the Ombudsman's website:

**[www.ombudsman.org.uk](http://www.ombudsman.org.uk)**.

## Using the complaints process

If you have decided that you wish to make a formal complaint, you will need to understand the stages in the formal complaints process.

The complaints manager for the service you want to complain about should be able to explain exactly how the system works locally, but generally you should expect the following:

- Your complaint should be acknowledged within three working days
- The organisation should offer to discuss your complaint and arrange a plan to resolve your concerns with you. They should agree with you a timescale for resolving your issues and how they will keep you informed of progress
- They should contact you if they need to change the timescale and agree an amended timescale. The timescales can be influenced by things like how many staff they need to speak to, how easy it is for them to access your medical records and if other organisations are involved in your complaint
- There should be an investigation into the issues you have raised
- They should help you to understand the complaints procedure or offer information on where to obtain such assistance, for example, your local ICAS provider.

Once the investigation is complete the organisation should either write to you to inform you of their findings, or offer you a meeting to discuss them. When the meeting is over, they should write to you with their findings and any agreements you have reached.

The organisation should provide a complaint response letter that includes:

- A summary of your complaint
- What the investigation found
- What to do if you are still unhappy with the answers given.

Depending on what the investigation found, the letter may also contain:

- An apology, if appropriate
- An explanation of what action will be taken as a result of your complaint, who is responsible for this action and when it will be completed
- What steps have been taken to prevent the same thing happening again to other people.

The letter should be:

- Balanced, factual and impartial
- Clear and easy to understand.

If you haven't received this letter within the timescale agreed in the plan you may want to ring or write to check when you can expect to receive it. Organisations are encouraged to review complaints that have lasted more than six months to ensure that everything is being done to resolve them. If you haven't received a response letter within six months of your original complaint and the organisation has not agreed a longer time frame with you, you may wish to refer your complaint to the Health Service Ombudsman.

## Other features of the complaints procedure

The complaints process may also involve:

**A local resolution meeting** - sometimes the complaints manager will suggest that a meeting to discuss your complaint might be helpful before coming to a conclusion. Local resolution meetings are usually held at the organisation which the complaint is about, for example at the hospital or GP surgery, but the venue should be suitable for you and we can support you to find an alternative venue. Sometimes the staff who have been complained about are present for the meeting and sometimes supervisory staff/heads of departments are present instead. If you would like specific members of staff to be present for the meeting you can make this request to the organisation in advance. You can also request that a particular member

of staff is not present. You can take a family member or friend with you to the meeting to provide support. You are also able to be accompanied by an advocate. You do not have to attend a meeting if you do not want to, but it is usually helpful to do so. If you would like more information about local resolution meetings or would like an ICAS advocate to accompany you to a meeting, please contact us.

**Mediation or conciliation** - some organisations use conciliation or mediation services. A conciliator/mediator is a neutral and independent person who can arrange a meeting with you and those involved in the complaint investigation (either separately or together) so you can all express your views and try to resolve your differences. A conciliator will only become involved if everyone affected agrees. The conciliation process is confidential and should be explained to you so that you can decide whether this is something you wish to participate in.

**Accessing records** - when you are making a complaint it may be useful to look at your records.

Patient records include:

- GP, hospital and other NHS staff records
- Details of visits, treatments, medication, tests and their results, diagnosis and referrals. Under the Data Protection Act 1998, you have a right to see your records, unless your doctor thinks that to do so would seriously harm you or another person. There are different ways of viewing your records and, depending on what you require and how your records are stored, there may be a charge. Under certain circumstances you can apply to see someone else's medical records.

There is further detail about accessing medical records at:

[www.nhs.uk/nhsengland/thenhs/records/healthrecords/pages/what\\_to\\_do.aspx](http://www.nhs.uk/nhsengland/thenhs/records/healthrecords/pages/what_to_do.aspx)



*I'm not happy with the way my complaint has been dealt with.*

## What if I am **unhappy** with the response to my complaint?

If you do not feel you have had an adequate response to your complaint you have the right to take your complaint to the Health Service Ombudsman. Unless there are special circumstances, as a rule the Ombudsman will only accept a case if he or she feels that every effort has been made to resolve the matter locally. Before taking your complaint to the Ombudsman, therefore, it is worth considering the following options:

- Write another letter to the organisation explaining what you think has not been covered
- Call the person handling your complaint and explain why you are still unhappy
- Request a meeting to discuss your outstanding concerns.

Further investigation into your complaint may be carried out. Again, the organisation should contact you to agree a plan for doing this, including timescales. Once the organisation you are complaining about feels that it has done everything it can to answer your complaint it should advise you of that in writing. This will mark the end of the local part of the complaints procedure and you can then refer your complaint to the Ombudsman.

## What happens if I decide to take my case to the **Health Service Ombudsman**?

If you are not satisfied with the way your complaint has been dealt with by the organisation concerned and feel that you have done everything possible to resolve your complaint at local level, you have the right to take your complaint to the Health Service Ombudsman. If your complaint also relates to Local Authority funded social care, the Health Service Ombudsman can work with the Local Government Ombudsman to consider all aspects of your complaint. The Health Service Ombudsman and the Local Government Ombudsman are independent of the NHS, local authorities and of government. Their services are confidential and free.

### **Timescales for referring a complaint**

The Ombudsman will not normally consider complaints that fall outside the timescale for NHS complaints (normally within 12 months of the event you wish to complain about, or as soon as the matter first came to your attention). You can contact them for advice. Their details are at [www.ombudsman.org.uk](http://www.ombudsman.org.uk). If there is good reason the Ombudsman may extend this time limit, for example if you have been unwell or traumatised.

### **Process for referring a complaint**

The Ombudsman will not investigate a complaint just because you do not agree with a decision made by the organisation. You will need to offer evidence as to why their decision is wrong or unsatisfactory. The form available on the Health Service Ombudsman's website will help you to make your complaint and you should send copies of any supporting documentation that will help the Ombudsman to understand why you feel dissatisfied.

### **What happens once the Ombudsman receives your complaint?**

The Ombudsman's service will look at every complaint but it is up to the Ombudsman to decide which cases will be investigated. The same rules as those used in the NHS apply if you are complaining to the Ombudsman on behalf of someone else - see page 6. The Ombudsman's service can refer your complaint back to the NHS if it is felt that you have gone to the Ombudsman too soon, or if it is felt that the organisation involved has not done all it can to resolve your issues locally.

Information about the Ombudsman's criteria for investigating a complaint can be found at [www.ombudsman.org.uk](http://www.ombudsman.org.uk).

The Ombudsman's office will not usually investigate a complaint where:

- There is no evidence to suggest that the organisation or practitioner acted incorrectly
- The organisation or practitioner has done all that they reasonably can to put things right
- There would not be a worthwhile outcome from an investigation (for example, if the remedy you are seeking cannot be achieved).

A member of the Ombudsman's staff will consider whether your case meets the Ombudsman's criteria for investigation. You will be contacted if they need to see clinical records and other papers related to your complaint to decide whether or not they can investigate. They will then contact you to let you know the outcome of the assessment.

If the Ombudsman decides to accept your complaint for investigation, it will be allocated to a case manager. They will conduct a full investigation and will remain in regular contact with you to update you about progress. The case manager will request the complaint file from the organisation and will use the information which you have provided and any reports from the Ombudsman's own clinical advisors (if your complaint is about clinical care) as part of the investigation.

Once the investigation is complete the case manager will write a detailed report outlining their findings. The report will state whether your complaint has been upheld, partially upheld or not upheld. If the Ombudsman's office upholds your complaint or part of your complaint it can make recommendations to the organisation or practitioner about actions to put things right. The organisation should provide you with a full response to the recommendations within an agreed timeframe.

The Ombudsman has an external review process which you can use if you do not agree with their decision not to accept your case, or if you think their investigation is not satisfactory. However, once you have completed this stage you have exhausted the complaints process and the Ombudsman's decision about your complaint will be regarded as final. If you wish to make a further challenge, you will need to take legal advice.



*How long is it going to take for my complaint to be dealt with?*

## Tips for using the NHS complaints procedure

### Before you write a letter or make a phone call

Below are some tips that will help you through the process. Before you write a letter or make a phone call, decide what it is you are unhappy about.

This could include:

- Treatment, care or service
- The attitude of staff
- Poor communication
- Waiting times
- Lack of information
- Failure to diagnose a condition
- Medication problems
- Poor handling of your complaint.

Think about how you were affected by what went wrong and the impact it has had on you and your family. Think about what you want to achieve by making a complaint.

For example, you might want:

- An explanation of what happened
- An apology
- Changes to be made, so that the same thing will not happen to anyone else.

Make a note of your thoughts so that you can refer to them when you make your complaint.

### Be clear

By setting out your case clearly you improve the chances of your complaint being resolved quickly.

It helps if you:

- Focus on the main issues that you want investigated rather than any minor concerns
- Make sure you raise everything that you are unhappy about. Introducing a new issue later can cause delay and may have to be treated as a new complaint
- Give clear information about what happened
- Are clear about what has upset you and how it has affected you, but avoid aggressive or accusing language

- Are clear and realistic about what you want to happen as a result of your complaint
- Use short sentences and try to avoid repeating yourself
- Include any relevant documents.

Remember to include:

- Your name and address and any contact details
- That you are making a formal complaint under the NHS complaints procedure.

### Keeping track

Keep a record of any telephone calls you make or letters you write or receive about your complaint. Keep copies of any material or letters that you send and use recorded delivery.

### Your patient records

If you have received a copy of your patient records and you have concerns it may be worth:

- Asking if any part of your records has not been made available
- Contacting the trust or your GP for help to understand the record.

If you think your records are inaccurate, you can ask for a correction to be inserted. You are entitled to a copy of the changed record free of charge.

If you have a problem accessing your medical records you can contact the Data Protection Information Commissioner.

### Attending a local resolution meeting or taking part in mediation or conciliation

If you are invited to attend a local resolution meeting or to take part in mediation or conciliation, you may want to check:

- The purpose of the event and how it will be handled
- Where and when it is proposed to hold the event
- Who will be there
- Whether or not they propose to make a recording
- What you should bring with you.

You do not have to attend, but if you decide not to, it is helpful to say why not as this gives the organisation the chance to see if they can work with you to find another way of addressing issues of concern.

The meeting is a two-way process and is intended to help to resolve your complaint. Do not be afraid to make suggestions about ways the meeting could be organised to enable you to contribute as best you can. You can take a friend, family-member or advocate to support you, but you need to let the organisation know in advance. You should also let the organiser know if you want to make a recording so that arrangements can be made. Let the organiser know if you or someone accompanying you has any particular needs. You are more likely to find the meeting helpful if you take some time to prepare in advance. Make notes of any key points you want to make and take with you any information that you want to refer to.

*I want an explanation about what went wrong.*





To contact the Advocacy Team

Call the helpline: **01962 440262**

**Email:** via [www.healthwatchhampshire.co.uk](http://www.healthwatchhampshire.co.uk)

Alternatively, please visit your local CAB Advice Centre, where advisers can refer you to the complaints team.

Please visit [www.citizensadvicehampshire.org.uk](http://www.citizensadvicehampshire.org.uk) for details of CAB Advice Centres in the area.

