

Frequently asked questions about NHS and Social Care complaints

Reassurance, insight and understanding

Who can complain?

Anyone who is receiving, or has received NHS treatment or Services or Social Care can complain. If you are unable to complain yourself then someone else, usually a relative or close friend, can complain for you, with your permission.

Why complain?

It is important for NHS and social care staff to know your experience of their care. If you are unhappy and let someone know, they can find out what happened and try to make changes which will improve NHS, Local Authority and Third Sector (care provided by voluntary organisations) care and prevent further problems happening to other people.

If something goes wrong, making a complaint can result in an explanation of what happened and possibly an apology. You have the right to complain about NHS and Social Care services and you should expect a full and prompt reply.

Is there a time limit during which I must make my complaint?

Yes. At the moment you should make your complaint within one year of the incident happening or from when you realised you had cause for complaint. If you have been very ill, or distressed because someone you loved has died, that time limit may be extended. The Complaints Manager has the discretion whether or not to waive the time limit.

If you make your complaint outside the time limit, the NHS Trust or Local Authority may agree to investigate it informally.

What happens if I complain about something that is happening to me or my relative/friend now?

If you or your family member or friend are having problems with your NHS or Social Care service, it may be more appropriate to ask your local NHS Patient Advice and Liaison Service (PALS) or Local Authority Customer Service Department to help you.

There is a PALS service in most Trusts which should be easily accessible either by asking someone on the ward or department you are in, or through the hospital switchboard. You may see posters about the PALS service around the hospital or community clinic.

What can the PALS and Customer Services do for me?

They can provide:

- information about NHS and social care services
- help resolving concerns or problems
- information on how to complain and how to access independent help and advice
- helping people share their concerns, suggestions and experiences and using this information to improve services
- putting people in touch with support groups and agencies who can offer additional help
- showing people how to get involved in shaping local health and social care services
- early warning systems for specific problems or gaps in services

What if I want to make a complaint straight away?

If you're not happy with something that has happened to you or someone close to you, the first person to approach is the person providing the service and tell them you are not satisfied. It may be they will be able to resolve your complaint immediately, but if not, they should tell you who to make your formal complaint to. There will be a Complaints

Department within every Trust and Local Authority (sometimes they have different titles, like Customer Care or Patient Liaison). They should make a note of your complaint or ask you to send in a written letter explaining what you are unhappy about.

What if I don't want to tell the service provider about my complaint?

If you do not want to contact the person providing the service, e.g. if the person being complained about is your GP or dentist, you no longer have to contact them directly. You can write to the Primary Care Trust who contracts with the GP or dentist and ask them to investigate the complaint.

What if my complaint is about both health and social care services?

If you are complaining about a range of services provided by or commissioned by both organisations, you can now contact one organisation and ask them to investigate your complaints. It is your choice whether you contact an NHS Trust or a Local Authority. The organisation which manages the majority of the services complained about should co-ordinate the investigation of the complaint and provide you with a single response. They will need your permission to pass your details on to the other body, but you should not have to make more than one complaint.

What if I have a complaint about the way a service has been commissioned (purchased) on my behalf or about the failure to commission a particular service or treatment?

In these circumstances, you should make a complaint to your local Primary Care Trust (PCT) for health services or to the Local Authority Commissioners for social care services.

If you are complaining about the failure of the PCT to provide a service or particular drugs for your care, you may be able to appeal against the PCT's decision. Very often a first request for a particular drug or treatment is turned down, but it may well be successful on the second or third attempt. You must have the support of your GP and/consultant to show why you need the drug or treatment. You can ask them to provide letters of support to send to the PCT.

The PALS service at the PCT should be able to guide you through the Appeals Process and tell you what needs to be done.

If you are unhappy with the PCT's decision, it can be Judicially Reviewed in the High Court. There is a short time limit for applying for a Judicial Review and you will need legal advice. If you need help in this area, please contact a member of our Public Law team on **0870 1500 100**.

Do I have any rights as a complainant?

Under the NHS Constitution, any individual has the right to

- have any complaint they make about NHS services dealt with efficiently and have it properly investigated
- know the outcome of any investigation into their complaint
- take their complaint to the independent Health service Ombudsman if they are not satisfied with the way the NHS has dealt with their complaint
- make a claim for judicial review if they think they have been directly affected by an unlawful act or decision of an NHS body
- receive compensation where they have been harmed by negligent treatment.

People who use social care services have the right to take their complaint to the Local Government Ombudsman if they are not satisfied with the response provided by the Local Authority.

Can I still make an NHS complaint if I am pursuing a legal case for clinical negligence?

Yes. The regulations which govern the new NHS complaints procedure were changed on 1 April 2009, allowing complaints and litigation to run concurrently. If your Trust tell you that your complaint can't be

investigated because of legal action, ask them to check with the NHSLA to ensure they are acting on the most up to date regulations.

How long will it take for my complaint to be answered?

From the 1 April 2009, there are no proscribed time limits for answering complaints. The aim is to investigate a complaint as soon as possible and give you a response which is appropriate.

When a Trust receives a complaint, the Complaints Manager should contact you with an investigation plan. The plan should include:

- An appreciation of any legal rights associated with the complaint
- An Action Plan
- Timescales for investigating the complaint and providing a response
- Agreed dates when they tell you what is happening
- Any support you might need
- Any immediate action which needs to be taken (e.g. apology or making a sure a service is safe to continue)
- Complaint categorisation

How will my complaint be answered?

Most complaints are answered in a letter from the Chief Executive of the Trust or Local Authority. As part of the action plan you may be asked to attend a meeting with appropriate senior staff so the people who are investigating the complaint can be sure that they have completely understood the entirety of your complaint. This may happen before you receive a response or you may be asked if you would like a meeting to discuss the response after you have received it.

What if I am unhappy with the first response?

You can ask for a more senior manager to investigate the complaint further under Local Resolution if you do not feel that the Trust has provided an adequate response. You can also ask to meet with specific members of staff if you feel this would be helpful to you.

What if I feel that the Trust isn't taking my complaint seriously?

Ask the Trust to explain to you how they have categorised your complaint. Under the new complaint procedures, there are three levels of seriousness of complaint – low, medium and high.

- Low – where someone has received an unsatisfactory service or experience
- Medium – where the service was below expectations, but has resulted in no lasting problems to the individual, but there is some potential for litigation
- High – where there has been a serious incident with strong risk of litigation and adverse publicity to the Trust

What can I achieve through making a complaint?

You should receive an explanation from the Trust telling you what happened. If the Trust explains things in a way you do not understand you can ask them to do it again in a form you can understand. You should receive an apology if something has gone wrong and the Trust should tell you how they are going to make changes to policies or procedures to stop it happening again. The complaint response should include details of how any changes to the service are going to be monitored in the future with timescales. You may be asked if you would like to be part of that monitoring process or be informed of any future changes. You will not be told the outcome of any disciplinary procedures as this information is confidential between the member of staff and their employer.

Each Trust now has to produce an Annual Complaints Report which will be a public document. In this report the Trust has to say what complaints they have received and how a service has been changed or improved to stop a similar event happening in the future. The report also has to include what the Trust has learned from complaints received. GPs also have to provide information about their complaints, including the nature of the complaint and say how their service has changed.



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What happens to my complaint if the actions of a member of staff are being investigated?

At the moment, if your complaint necessitates an investigation under disciplinary procedures or by the police, the complaint investigation will be suspended until those investigations are complete.

What happens if I am not happy with the Trust's response and they tell me that Local Resolution has ended?

There is no longer an external Independent Review process to the NHS complaints procedure as the Healthcare Commission no longer exists. This brings the English NHS procedure in line with those of Wales and Scotland, who also have a two tier process. (In Wales complainants can still refer their complaint to the Welsh Quality Commission, but very few do so, preferring to go straight to the Welsh Ombudsman)

If a complaint is sufficiently serious, a Trust should bring in external independent investigators and experts to investigate a complaint. If you do not think a complaint has been independently investigated, you can ask a Trust to bring in external investigators before the end of Local Resolution.

If you are not happy with the Trust or Local Authority's final response, you can write to the Health Service or Local Government Commissioner and ask them to investigate your complaint. Your request will be sent to a screening unit and they will let you know within a short time whether or not they will investigate your complaint.

What if I want to complain about a specific professional?

Professionals can be reported to their licensing body for unprofessional contact.

If an issue is brought to your attention that looks as if the doctor or nurse is practicing in an unsafe manner and is a danger to their patients, this should be discussed either with the Chief Executive or senior clinician of either the employing Trust or the contracting PCT. They have a responsibility for the conduct to be considered under their local Fitness to Practice procedures and they can refer the matter to the professional body for immediate suspension from the register. (This can happen quite quickly.) Complaints about doctors should be made to the General Medical Council. Information can be found on www.gmc-uk.org

A complaint should be lodged with the GMC as soon as possible and otherwise within 5 years. They will not consider complaints that are currently within the NHS complaints procedure until that procedure is completed. If in doubt, contact the Conduct/Fitness to Practice Division for an informal chat. They are usually quite helpful. Cumulative complaints about an individual practitioner can be brought under the Fitness to Practice procedures and are considered relatively quickly. There is no guarantee that such evidence will result in suspension or deregistration.

Complaints about nurses, health visitors and midwives should be made to the Nursing and Midwifery Council, www.nmc-uk.org. They will not consider complaints which have not been through a disciplinary hearing at a Trust (they don't tell you this) and their timescales are extremely lengthy.

Complaints against Dentists can be made to the General Dental Council: www.gdc-uk.org
Helpful details on how to complain can be found on this site.

The Government encourages all professionals to be self regulating. Complaints about Professions Allied to Medicine (chiropodists, physiotherapists, occupational therapists, speech and language therapists, audiometrists etc) should be sent to the Health Professions Council: www.hpc-uk.org

The General Social Care Council regulates social workers and social care assistants: www.gsccl.org.uk

Chiropactors, Osteopaths and Counsellors, all have their registering and governing bodies.

Useful websites are given below:

General Chiropractic Council: www.gcc-uk.org

General Osteopathic Council: www.osteopathy.org.uk

British Association for Counselling and Psychotherapy: www.bacp.co.uk

Protecting Vulnerable Adults and Children

The Independent Safeguarding Authority (ISA) was established in January 2008. This body is taking over the responsibility for vetting anyone who works within the health and social care field with children

or vulnerable adults. Any individual who is treated by the NHS in any setting is classed as a vulnerable adult for the duration of their treatment.

From October 2009, Employers of health and social care organisations have a duty to refer any staff or volunteers to ISA where anyone is harmed or placed at risk. Employers must not knowingly employ a person who has been barred by the ISA. Anyone who has been barred by ISA who works within a health or social care field is committing an offence. If you have concerns about anyone working in the health or social care field, you can contact ISA and ask them to investigate. More details can be found at www.isa-gov.org.uk

Useful Organisations

Health Service Ombudsman

Millbank Tower
London
SW1P 4QP
Tel: 0845 015 4033
Website: www.ombudsman.org.uk

Local Government Ombudsman

PO Box 4771
Coventry
CV4 0EH
Fax: 024 7682 0001
LGO Advice Team: 0300 061 0614 or 0845 602 1983.

Email advice@lgo.org.uk,
Website:
www.lgo.org.uk/making-a-complaint

ICAS

ICAS is a government-funded service for England which provides free, independent and confidential advice to patients or carers who wish to pursue a complaint about NHS treatment or care.

Carers Federation ICAS

www.carersfederation.co.uk
Tel: 0845 650 0088
info@carersfederation.co.uk

The Carers Federation provide ICAS in:
The East Midlands - Tel: 0845 650 0088
The North East - Tel: 0845 120 3732
The North West - Tel: 0845 120 3735
Yorkshire & Humberside
Tel: 0845 120 3734

POhWER ICAS

www.pohwer.net

POhWER provide ICAS in:

London
The West Midlands
The East of England

London

North Central - Tel: 0845 120 3784
North East - Tel: 0845 337 3059
North West - Tel: 0845 337 3065
South East - Tel: 0845 337 3061
South West - Tel: 0845 337 3063

West Midlands

Birmingham & the Black Country
Tel: 0845 120 3748

Shropshire & Staffordshire
Tel: 0845 337 3054

Coventry, Warwickshire, Herefordshire &
Worcestershire - Tel: 0845 337 3056

The East of England

Hertfordshire and Bedfordshire
Tel: 0845 456 1082

Essex - Tel: 0845 456 1083
Cambridgeshire, Norfolk and Suffolk
Tel: 0845 456 1084

Prison ICAS
Tel: 0845 456 4214

The South of England Advocacy Projects (SEAP) ICAS

www.seap.org.uk
Tel: 01424 718075

The south of England Advocacy Projects
(SEAP) provide ICAS in:
The South East - Tel: 0845 120 3782
The South West - Tel: 0845 600 8616

Patient Advice and Liaison Service

To find the appropriate PALS Service go to www.pals.nhs.uk and search their database for your local hospital or Primary Care Trust. There are also PALS in the community and mental Health services who are there to help and support you. They can also put you in touch with your local ICAS service.

If you live in Wales, you can contact your local Community Health Council at www.wales.nhs.uk.

If you live in Scotland, contact your local Citizens Advice Bureau.

Independent Safeguarding Authority

Helpline: 0300 123 1111.
Email: scheme.info@homeoffice.gsi.gov.uk

Useful Contacts

If you require further guidance, please do not hesitate to contact:

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