

Raising Concerns or Complaints about the NHS

ᵂᵇ ᵀᶠ ᵂᵍᶜᵇ



iCAS

Independent Complaints
Advocacy Service

Raising concerns and complaints

Step 1 - What are you unhappy about?

Step 2 - What do you want to achieve?

Step 3 - Who do I raise my concern with?

The NHS Complaints Procedure

Local resolution

Letters to the NHS provider

Meetings

Complaint resolved?

Yes

END

NO

The Health Service Ombudsman (HSO)

Contents

Page 2 Introduction

How to use this pack

Page 3 How can ICAS help?

Page 4 Raising concerns and complaints –
First Steps

Page 4 Step 1 – What are you unhappy about?

Page 5 Step 2 – What do you want to achieve?

Page 7 Step 3 – Who do I raise my concern with?

Page 8 The NHS Complaints Procedure –
Local Resolution

Page 14 The Health Service Ombudsman (HSO)

Page 16 Questions and Answers



Introduction

The National Health Service (NHS) works hard to treat everyone properly and promptly. Most people using the health service are happy with their treatment but sometimes things can go wrong.

If you are unhappy with the service you or others have received from a hospital, doctor, dentist, local surgery or any other NHS service, you can raise your concerns about it.

By raising your concerns it can help put things right quickly and the NHS can learn from your experience. This could include an explanation, an apology and information about how the NHS has used your experience to improve services or care.

How to use this pack

This pack aims to help you feel confident about raising your concerns yourself.

The pack:

- Explains the different options for raising your concerns about the NHS
- Offers practical tips and things for you to think about
- Tells you how ICAS can help you with independent support
- Includes a folder where you can keep all your correspondence about your complaint

This booklet is divided into sections that explain each stage of the process in detail.

How can ICAS help?

ICAS can help you raise a concern about NHS care or treatment

ICAS is:

- Free
- Independent
- Confidential

Your ICAS Advocate will contact you as soon as possible. They will take time to listen to your experience and can then talk to you about what support you need to make your complaint. Your Advocate will be able to give you information about the different ways that you can raise your concerns with the NHS organisation (see Step 3) so that you feel comfortable with the process.

Your Advocate can also help you think about what you would like to achieve from your complaint. People want different outcomes when they complain such as an apology, an explanation or an improvement to NHS services.

ICAS Advocates can:

- Give you an opportunity to speak confidentially to someone who is independent of the NHS
- Explore the options available to you at every stage of the complaints procedure
- Help you with writing effective letters to the right people
- Prepare you for meetings
- Contact and speak to third parties if you wish us to
- Help you think about whether you are happy with the responses you receive from the NHS organisation

Your Advocate will not try to persuade you to take a particular course of action and will always respect your decisions.

You can find out how to contact your nearest ICAS office on the leaflet enclosed with this pack.





Raising concerns and complaints about the NHS – First Steps

Step 1

What are you unhappy about?

Before you start, it is important to be clear what it is you are unhappy about with your NHS care. This can be any aspect of the NHS care and services that you have received, but might include:

- Treatment or care
- The attitude of staff
- Poor communication
- Waiting times
- Lack of information
- Failure to diagnose a condition

Here are some “real-life” examples of recent issues raised:

- An emergency ambulance took over an hour to arrive
- A patient was given incorrect information about a medical procedure and suffered pain as a result
- A GP refused to do a home visit
- An elderly patient frequently had to wait a long time for routine transport home from hospital appointments
- A patient felt that a nurse had treated him without respect



Useful tip: write down now what you want to complain about as simply and clearly as you can so that you can refer back to it later.

Step 2

What do you want to achieve?

Think about what you want to achieve. Your issues are more likely to be dealt with smoothly if you can be specific and realistic.

When raising a concern with the NHS you can expect:

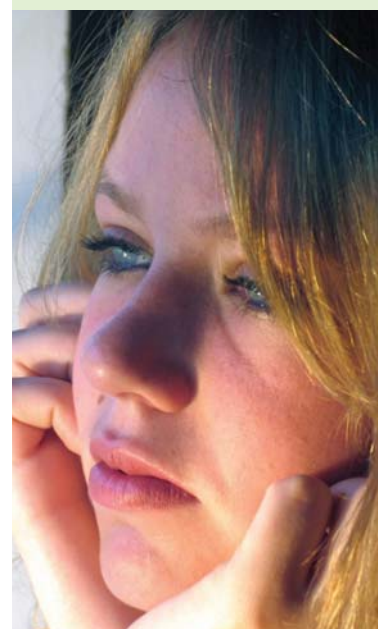
- To be treated with respect and courtesy
- To be offered support to help you raise your concerns
- A speedy solution to be offered where possible
- An explanation of what happened
- An apology if appropriate
- Changes to be made so that the same thing will not happen to anyone else
- Better communication between NHS staff and patients

ICAS can only support you if your complaint is about NHS funded healthcare

There are some limits on what can be achieved using the NHS Complaints Procedure. Where the outcome you are looking for would be more likely to be achieved through another route our Advocate can explain this and give you information about who best to contact instead.

Financial compensation for clinical negligence

- This is usually possible only through legal action
- You need to speak to a solicitor who specialises in medical or clinical negligence
- There are time limits for making a legal claim and it is best to contact a solicitor within three years of the incident





Disciplinary action against any NHS staff member

- The NHS Complaints Procedure cannot be used to take disciplinary action against a member of NHS staff or Prison Staff
- This could however, happen under a separate procedure as a result of an investigation into your complaint

Private healthcare complaints

- If you have paid for private treatment or used medical insurance you cannot use the NHS Complaints Procedure to make a complaint. The private healthcare service will have its own complaints procedure that you can follow
- If, however, your treatment was funded by the NHS you can still use the NHS complaints procedure

Care home and nursing home complaints

- If the care home or nursing home is paid for by the NHS you can make a complaint using the NHS Complaints Procedure
- If the care home or nursing home is paid for privately you cannot make a complaint using the NHS Complaints Procedure. Most care homes and nursing homes will, however, have their own complaints procedure so you can make a complaint using this

Step 3

Who do I raise a concern with?

Once you are clear on what you are unhappy about you need to decide how best to do this. There are different ways that you can do this and it helps to think about what you feel comfortable with. You could:

Speak to a member of staff directly

- Many complaints are caused by misunderstandings or communication that can be put right once you explain the problem. If you feel able to, you can speak to a member of staff who is directly involved in your treatment, or their manager, about what you are unhappy about. This is often the quickest way to put things right and stop them getting worse

Speak to the Patient Advice and Liaison Service (PALS)

- If you feel uncomfortable directly contacting the NHS staff yourself or you have tried and it has not resolved your issues, then a service called PALS (Patient Advice and Liaison Service) may be able to help you
- PALS provides information, advice and support to patients, families and their carers and can help you get answers to your questions quickly. See the PALS factsheet enclosed in this pack to find out more about the service

The 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
- You wish to raise complex issues which require investigation
- The issues involved concern more than one organisation





The NHS Complaints Procedure

The NHS Complaints Procedure focuses on resolving your complaint locally.

Stage 1 - Local Resolution

The aim of Local Resolution is to try to sort out your problem directly with the NHS organisation. The NHS aims to respond to you efficiently, sensitively and promptly.

Local Resolution is your opportunity to explain what it is you are unhappy about and what you would like to happen. It gives you and the NHS organisation time to listen and discuss the incident. Local Resolution is important because it aims to resolve your concerns and, where appropriate, use your experiences to improve local services.

At this stage it is important to raise everything that you are unhappy about, as new issues cannot later be introduced as part of the same complaint.

It may be helpful to keep a record of any telephone calls you make and letters you write or receive about your complaint. To help you do this, a Log Sheet is included in this pack. You can fill in all the details of who you wrote or spoke to, what was agreed and when it needs to be done by.

Are there time limits for making a complaint?

Yes. Generally, you should make your complaint within:

- Twelve months of the incident happening or
- Within twelve months of you realising that you have something to complain about

The NHS can use its discretion to look at issues that are beyond these timescales. For instance, if you were too ill to make the complaint straight away the NHS will consider if it is still possible to investigate the complaint effectively and fairly.

How do I complain?

You can explain what happened to you:

- In person
- On the telephone
- By email
- In a letter

NHS organisations tend to prefer having complaints in writing but if you would rather telephone or go in person, the Complaints Manager should make a written record of your complaint. The issues you raise should be written down and a copy given to you.

Useful tip: if you send a written complaint, keep a copy of your letter to refer to later.

All NHS organisations have complaints procedures and in most cases they will probably be best placed to deal with your complaint. However, you can complain to the Primary Care Trust (PCT) if you wish to do so. The PCT is responsible for all NHS services in your local area.

If you want to complain about your hospital or ambulance service contact the Complaints Manager or the Chief Executive of the NHS Trust.

For complaints about primary care and independent providers such as your GP, dentist, optician, pharmacist, health centre or other independent NHS contractor, you have two options:

- You can complain directly to the NHS organisation by contacting the person in charge of complaints. In most GP and dental practices, this will be the Practice Manager.

Or

- You can complain to the Primary Care Trust (PCT). The PCT is responsible for all care in your local area and they work closely with primary care practitioners such as GPs and dentists.

If you choose to make a complaint directly to the organisation and you are not satisfied with their response you cannot then raise the issue with the PCT but must go straight to the Health Service Ombudsman (HSO).





If you are not clear where to send your complaint, ask for advice from PALS or the Complaints Department in larger organisations such as hospitals. Many NHS organisations will have details of how to contact them about complaints on their website.

Remember, if your complaint concerns more than one NHS organisation, you only need to send a letter to one of the organisations. They will liaise with the other organisation(s) involved and provide a co-ordinated response.

If you need support with any of these processes a free independent ICAS Advocate will be able to help you.

What will happen next?

Sometimes it may be possible to resolve your concerns immediately.

If this is not the case they:

- Should acknowledge your complaint either verbally or in writing within three working days
- Must offer to contact you to discuss your complaint and arrange a plan to resolve your concerns with you. This means that they will discuss how best to resolve your concerns and what you hope to achieve from raising them. They should also agree with you a timescale for resolving the issues and how they will keep you informed of progress. The suggested 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 NHS organisations are involved in your complaint. If there is a problem in keeping to the agreed timescale they should contact you before it expires to agree an amended timescale
- Should offer assistance to enable you to understand the complaints procedure or advice on where to obtain such assistance, such as, from your local ICAS provider

Resolving your complaint:

- You may be offered a **meeting** to discuss your complaint and speak to staff directly about what has happened. You can take a friend, relative and/or Advocate with you to any meetings that you might have
- Sometimes the NHS uses **Conciliation** or **Mediation** services. A conciliator/mediator is a neutral and independent person who can arrange a meeting with you and those involved (either separately or together) so you can all express your views and try to resolve your differences. A conciliator will become involved only if everyone affected agrees. The conciliation process is confidential
- Conciliation and Mediation Services differs from Trust to Trust so if this is offered you should ask the Complaints Manager to explain how it operates in your area

Useful tip: It may be helpful to prepare a list of questions you want to ask at your meeting and bring this with you. Try to keep these questions clear and concise. It is also helpful to take any relevant paperwork with you to the meeting.





What will happen next?

Once the investigation is finished and any meetings have been held the Complaints Manager should send you a letter containing:

- A summary of your complaint
- What the investigation found and any actions that are going to be taken as a result
- What to do if you are still unhappy with the answers given

Depending on the investigation the letter may contain:

- An apology, if relevant
- What actions will be taken and when, as a result of your complaint
- Who is responsible for making this happen
- What steps have been taken to prevent the same thing happening to other people

The letter should be:

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

It should avoid technical terms and, if they are used, it should explain what they mean.

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.

If you have agreed, this letter may be sent in electronic form by email.

The Health Service Ombudsman (HSO) has produced a set of six clear principles for good complaints handling. All NHS organisations are expected to follow these principles when dealing with your complaint.

You can request details of this guidance from your local ICAS office or access this from our website:

www.carersfederation.co.uk Alternatively you can find out more by visiting the HSO website at www.ombudsman.org.uk

What if I am not happy at the end of Local Resolution?

If you are not satisfied with the reply ask yourself exactly what you are still unhappy about so you can decide what to do next. It may help to review:

- The letters
- Any meetings
- Any conciliation or mediation process
- Whether the plan you agreed was followed
- Whether parts of your complaint have yet to be answered, whether you feel evidence you gave was not properly considered
- Whether you have achieved the outcome you wanted
- What more, if anything, could have been done to achieve the outcome
- Whether the Complaints Manager has followed the Ombudsman's good complaints handling principles

What are my options?

- You could write another letter explaining what you think has not been covered
- You could call the person handling your complaint and explain why you are still unhappy
- You could request a meeting to discuss your outstanding concerns
- You may choose to try a different route to achieve the outcome you want – review the options at Step 2

Further investigation into your complaint may be carried out. Again, the NHS organisation should discuss this with you and agree a plan for doing this, including timescales.

The NHS organisation you are complaining about may feel that everything has been done to answer your complaint and if so, they should advise you of that in writing.

This is the end of the Local Resolution





Stage 2 - The Health Service Ombudsman (the Ombudsman)

You have the right to take your complaint to the Health Service Ombudsman, if you are not satisfied with the way your complaint has been dealt with by the NHS. The Ombudsman is independent of the NHS and of government. The Ombudsman's services are confidential and free.

You should submit a complaint no later than one year from the date of the events you are complaining about (or from when you first became aware of the matter), although the Ombudsman can extend this time limit, for example, if the Local Resolution process took longer than a year.

The Ombudsman will look at every complaint that comes to them but they do not (and are not required to) investigate all the complaints that are referred to them. It is a matter for the Ombudsman's discretion. They will not normally investigate your case unless you have already tried to resolve the problem using Local Resolution.

The Ombudsman can refer you back to the Local Resolution stage of the NHS Complaints Procedure if they think you have come to the Ombudsman too soon, or if they feel that the NHS organisation involved has not done all it can to resolve your issues locally.

The Ombudsman will not usually investigate a complaint where:

- You do not agree with a decision made by your NHS provider but cannot offer any evidence as to why their decision is wrong or unsatisfactory
- They decide that there is no evidence to suggest that the NHS provider acted wrongly
- They decide that the NHS provider or practitioner has done all that they reasonably could do to put things right
- They decide that there would not be a worthwhile outcome from an investigation (for example, if the remedy sought by the complainant is not obtainable)

Initially, a member of the Ombudsman's staff will consider whether your case meets the Ombudsman's criteria for investigation. To carry out this assessment they may need to see clinical records and other papers involved in your complaint. A member of the Ombudsman's staff will contact you to ask for any papers they need and they will write to you to let you know the outcome of the assessment.

If you take your complaint to the Ombudsman, there are three main outcomes:

- The Ombudsman may decide not to investigate the case and take no further action (for example, if they think that the NHS has done all it can to resolve your complaint locally)
- The Ombudsman may decide not to investigate the case but may ask the NHS provider or practitioner to take action which they think would resolve your complaint more quickly without the need for an Ombudsman investigation. This is called an 'intervention'
- The Ombudsman may decide to carry out an in-depth investigation resulting in a detailed report about the case. The investigation will be very thorough and can therefore take some time. The Ombudsman aims to complete 90% of investigations within 12 months of accepting the case for investigation

If your complaint is investigated by the Ombudsman

If the Ombudsman carries out an investigation of your complaint they will write a detailed report about the case.

If the Ombudsman upholds your complaint they can make recommendations to the NHS provider or practitioner to put things right.

The Ombudsman's decision

The Ombudsman's decision about your complaint is final. This includes their decision whether or not to investigate your complaint and their decision whether or not to uphold your complaint following an investigation.





Questions and Answers

Who can complain?

Any NHS patient can complain about any NHS service they have received and are unhappy about. You can complain on behalf of someone else in certain circumstances (see more below). NHS services include treatment and care given by your GP, dental surgery, hospital and the ambulance service. Anyone who is affected, or likely to be affected by the action, omission or decision of an NHS body can make a complaint.

My mother is elderly and I don't feel she could manage a complaints process. Can I complain for her?

You may complain for a friend or relative as long as they agree to let you complain on their behalf. It is useful to get their permission in writing. We have included a 'consent and confidentiality form' in this pack which you could use.

My partner has Alzheimer's Disease. Do I still need her permission to make a complaint?

If your friend or relative is very ill, or does not have the capacity to give permission because of an impairment or a disability, you may complain on their behalf without their permission, although the trust will confirm the patient's lack of capacity before accepting the complaint. If they do not accept the complaint they must inform you in writing if they do make this decision and tell you why.

My father died and I didn't have his consent to act for him. Can I make a complaint about his treatment?

Yes. You may raise a complaint or take over a complaint on behalf of a friend or relative who has died, even if you do not have their written permission. In some cases the NHS may decide not to accept you as a suitable representative, they will discuss this with you.

**My nephew is 15 and has Down's Syndrome.
Can I complain on his behalf without his written permission?**

A complaint can be made on behalf of a child (under 18) if the child is unable to make the complaint themselves. NHS organisations must not consider a complaint made by a representative of a child unless they are sure that the child is unable to complain themselves. They must inform you in writing if they make this decision and tell you why.

Can I complain about something that happened in the past?

It depends on how long ago it happened. You should make your complaint

- Within 12 months of the incident happening

Or

- Within 12 months of you realising you had something to complain about

NHS organisations are allowed to waive this time limit if there are good reasons why you could not complain earlier. One such case might be if you were too ill to complain at the time.

I had an operation in a private hospital. Can I complain to the NHS?

It depends. If the NHS paid for your operation in a private hospital, you can complain to the NHS. If you paid for your treatment yourself, or with private medical insurance, you cannot complain to the NHS. The private hospital will have its own complaints procedure that you should follow.

**I want to sue the surgeon who operated on me.
How do I go about it?**

You will need to take legal action if you want to make a claim for clinical negligence. The NHS Complaints Procedure does not deal with these cases. You can find details of local specialist solicitors by contacting Community Legal Services Direct or the Law Society (see Useful Addresses in the pack).



POhWER
advocacy, making your voice heard

Seap
SOUTH OF ENGLAND ADVOCACY PROJECTS



CARERS FEDERATION
LIMITED

Supporting Your Voice in the NHS