

Introduction

The National Health Service (NHS) works hard to treat everyone properly and promptly and 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 complain about it.

You have a right to have your concerns investigated and to receive a full reply. Making a complaint can also change how things are done and improve services for everyone.

How to use this information

This booklet aims to help you to feel confident about making a complaint yourself. It:

- explains what is involved in making a complaint
- explains how to go about it
- offers practical tips and things for you to think about
- tells you how to get independent help and support if you need it.

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

We have also included some Questions and Answers about the NHS Complaints Procedure at the end of this booklet, based on the questions people most often ask about it. Reading this section may help you decide whether:

- you want to try to sort out your concerns informally

or

- you want to go ahead with a formal complaint.

Making a Complaint - First Steps

Step 1

What do you want to complain about?

Before you start, it is important to be clear for yourself what it is you want to complain about. 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 complaints:

- 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 complaint is more likely to be dealt with smoothly if you can be specific and realistic.

Most people who complain to the NHS can expect:

- to be taken seriously
- 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.

The NHS Complaints Procedure cannot be used for the following:

- **financial compensation** - this is usually possible only through legal action. You need to speak to a solicitor who specialises in medical or clinical negligence;
- **disciplinary action** against any NHS staff member - however, this could happen under a separate procedure as a result of an investigation in to your complaint.
- **private healthcare complaints** – even as an NHS patient, you may receive service or treatment not funded by the NHS. If your complaint is about a private service you will need to use the complaints procedure that the private healthcare service operates
- **NHS Foundation Trusts complaints** - **these Trusts** have their own process for handling complaints at the first stage of a complaint. However they do fall under the authority of the Healthcare Commission and the Health Service Ombudsman so the latter stages (2 and 3) of the NHS Complaints Procedure do apply
- **care home and nursing home complaints** - unless the service or treatment you are complaining about is funded by the NHS.

Step 3

How should you go ahead?

Once you have got things clear in your mind, you need to decide how best to go about making a complaint. Many complaints are caused by misunderstandings that can quickly be put right once you explain the problem. You do not necessarily have to make a formal complaint to have your concerns addressed.

Are you in the middle of treatment or care?

If so, you can speak to a member of staff responsible for the service you are unhappy about. This is often the quickest way to put things right and stop them getting worse. If you do not want to speak to a staff member yourself, or you have tried and have not got what you wanted, 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 raise your concerns informally. See the special section about PALS on the Carers Federation website to find out how to contact PALS.

Look at the “pros and cons”

Making a formal complaint using the NHS Complaints Procedure may be the best route to follow if:

- what happened caused you distress or harm
- no investigation has yet taken place
- you have complained directly to staff but, in your view, their response was inadequate, unreasonable or incomplete
- what happened raises serious questions about standards of care
- you are uncertain about what happened and this could only be clarified by obtaining health records or clinical notes.

Making a complaint using the NHS Complaints Procedure may not be the best route to follow at this stage if:

- staff have listened to your complaint and you have already been offered a range of options to resolve what went wrong (for example, a meeting or second opinion on your treatment)
- staff have listened to your complaint and acted to put right any harm or damage you suffered
- staff have shown you how they have learned any lessons and reviewed their procedures and practice as a result of what happened to you.

To sum up

- think about whether you have a complaint to make
- can you resolve the problem informally?
- think about the “pros and cons” of making a complaint which are most important to you
- what are the downsides?
- who else will be affected, and how?
- what information do you need to have or to get before you can decide whether to make a complaint?

Useful tip: You may find it useful to obtain a copy of the health records concerned (see the leaflet in this pack to find out how to do this)

If you decide to go ahead

Making a complaint can be quite complicated and lengthy (writing letters, remembering deadlines, keeping notes of phone calls etc.) so we have included a helpful hints and guidelines leaflet in this pack to help you manage your complaint.

It can also be upsetting having to think and talk about what has happened, especially if something has gone very badly wrong with your treatment or a relative or friend has died. If you feel you would like extra help at any time, you can contact the **Independent Complaints Advocacy Service (ICAS)**.

ICAS staff, known as 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 and go to meetings with you
- contact and speak to third parties if you wish them to
- act on your direction rather than the wishes of others

Your advocate will not try to persuade you to do or not do anything and will always respect your decisions. You can find out how to contact your nearest ICAS office on the Carers Federation website.

The NHS Complaints Procedure

The NHS Complaints Procedure is made up of **three stages**. As a general rule, each stage of the NHS Complaints Procedure can go ahead only if the previous one has finished.

This section explains each stage in detail.

Stage 1 – Local Resolution

The first stage of the complaints process is called “local resolution”. It begins when you first tell the people responsible for the service you are unhappy about that you want to complain.

The aim of local resolution is to try to sort out your problem directly and as quickly and easily as possible. The regulations say that local resolution should not take longer than **six months**.

Generally, you should make your complaint within six months of the incident happening or within six months of you realising that you have something to complain about

Who do I complain to?

You need to complain to the person in charge of complaints for the service you are complaining about.

In most NHS doctors’ and dentists’ surgeries, opticians, health centres and so on, this will be the Practice Manager.

If you want to complain about a hospital or an ambulance service, contact the Complaints Manager or the Chief Executive of the NHS Trust. If you are not clear where to send your complaint, ask for advice from PALS or the Complaints Department at the hospital or from ICAS.

You can explain what happened to you:

- in person
- on the telephone
- by email
- in a letter.

Trusts tend to prefer having complaints in writing, however if you would rather telephone or go in person, the Complaints Manager should make a written record of your complaint. It is important to raise everything that concerns you at this stage as new issues cannot be introduced at a later stage of the process. If your complaint is not resolved at this stage and you want to take it further, whatever you have raised here will be referred to later.

It may be helpful to keep a record of any phone calls you make or 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.

What will happen next?

Sometimes the Complaints Manager can resolve your problem immediately.

Whether they can or not, you should receive a letter acknowledging your complaint within two working days. The actual written response to your complaint may take some time but you should get a written reply within 25 working days (10 days for Family Health Service Practitioners such as GPs, Dentists etc.). This can be extended further but only if you agree to this extension.

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

How should the NHS handle your complaint?

Through:

- an **investigation** into the facts of your complaint. This may answer all your points and you may be happy to leave things at that.

And/or

- a **meeting** chaired by the Complaints Manager. This gives you the chance to:
 - tell the staff concerned about your experiences
 - explain what you want to see happen as a result.

And/or

- **conciliation**. A conciliator 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 Services differ from Trust to Trust so you should ask the Complaints Manager to explain how it operates in your area.

You can take a friend, relative or advocate with you to any meetings that you might have. If, for whatever reason, you are not happy with the outcome of the meeting, write to the organisation concerned and say why.

Useful tip: If you can, prepare a list of questions you want to ask and bring this with you to your meeting. Try and keep these questions as clear as you can. You may find it helpful to number your questions and tick them off as the meeting progresses. If you have any relevant paperwork, take this with you to refer to.

What will happen next?

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

- a summary of your complaint
- what the investigation found
- details of the next stage of the NHS Complaints Procedure.

Depending on the Trust's investigation, the letter may contain:

- an apology if relevant
- what will be done, by 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 again 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.

This letter is called the “**final response letter**”. If you haven't received this within six weeks you may want to ring or write and ask when the Complaints Manager will be replying to your complaint.

This is the end of the first stage of the NHS Complaints Procedure.

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

If you're not happy with the reply from the Complaints Manager, first review:

- the letters
- any meetings
- any conciliation process.

Separate out exactly what you are:

- happy with
- unhappy with.

What are my options?

You could write another letter explaining what you think has not been covered. This could result in an offer of another meeting with the staff and managers concerned.

The Complaints Manager might feel that the staff have done all they can to answer your complaint and advise you to go to the next stage of the complaints procedure.

Stage 2 – The Healthcare Commission

If you are unhappy about the response at the Local Resolution stage, you can take your complaint to the Healthcare Commission.

The Healthcare Commission is completely independent of the NHS and Government and can investigate any matters that were not answered fully during Local Resolution. They will take an independent view of your complaint. This is called “**Independent Review**”.

The Healthcare Commission cannot normally review a complaint that is received more than six months after the date of the final response letter from the Complaints Manager. If however Local Resolution is not completed within six months, you have the right to immediately refer your complaint to the Healthcare Commission.

Should I go to Stage 2?

Going to the next stage of the NHS Complaints Procedure may be the best route to follow if, in your view, the response from the Trust or GP practice was:

- **incomplete** - not all your points were answered or fully understood
- **unreasonable** – they have not proposed anything to put right the harm or damage you suffered
- **inadequate** – there is no indication that action is being taken to prevent the same thing happening to someone else, including who will do what to put things right and by when

or if there are still **serious questions** about the standards of care.

Going on to the next stage may not be the best option if the healthcare provider has carried out a full investigation into what happened and:

- explained **who** was involved
- explained **why** actions were taken, or treatment given, or decisions made
- explained **what** the findings of the investigation were
- **examined** records, interviewed or took statements from witnesses
- **gave** you the results of the investigation in full (subject to any exclusions allowed under the Data Protection Act)
- **offered** you some options to resolve what went wrong (for example, a meeting or second opinion on your treatment)
- proposed or took action to **put right** any harm or damage you have suffered
- **has** shown you how the Trust or GP practice has learned any lessons and reviewed its procedures and practices as a result

The Healthcare Commission cannot investigate a complaint:

- if you have taken - or intend to take - **legal action**
- about **private health care** in non-NHS hospitals or nursing homes
- about **staff matters** - such as recruitment, pay and discipline.

How do I complain to the Healthcare Commission?

You need to put your complaint in writing. The easiest way is to download and fill in the “review request form” from their website (www.healthcarecommission.org.uk). If you do not have access to the internet, ICAS can help you.

Alternatively, you can write a letter (please refer to the Useful Addresses on the Carers Federation website for the address to write to).

If writing is difficult, you can ring the Commission’s helpline (**0845 601 3012**) and they will take down all the details for you, sending you a copy to confirm it is correct, or help you complete the form

ICAS can also help you complete the form or write a letter.

You will need to explain why you:

- believe your complaint was poorly handled by the healthcare provider that you have complained about
- or
- do not accept what was written in the final response letter

In your letter, you will need to provide:

- copies of all the relevant correspondence, including a copy of your original letter of complaint
- a copy of the “final response” letter to your complaint from the healthcare provider.

If you need help in putting the letter and the copies together, or with photocopying, ICAS can help you.

What will happen next?

The Healthcare Commission will clarify the facts of your complaint and then decide what to do next. This is called “**initial review**”. On the basis of the information you provide, the Healthcare Commission can decide to:

- carry out a full investigation

- refer your complaint back to the Local Resolution stage, if they feel that more can still be done at this stage to resolve the complaint
- refer your case to an independent panel
- take no further action because they believe your complaint has already been fully addressed at the local resolution stage.

Investigation

If the Healthcare Commission decides they will investigate, a case manager will work with you (usually by telephone or writing to you) and the organisation or individual you are complaining about to resolve your complaint.

The case manager will probably need your health records and other papers about your case: you will be asked to give your written agreement (consent) to this.

The case manager will identify the matters for investigation and send these to everyone involved for their comments.

Healthcare Commission staff may also ask to interview you, those you have complained about, and any witnesses, in person. You can take a relative, friend or advocate with you to support you.

The investigation can take up to six months, sometimes longer. When it is finished, the Healthcare Commission will write to everyone involved to advise them of their findings. This report will summarise the facts, the Healthcare Commission's conclusions, the reasons for them and any recommendations.

Independent Panel

In exceptional cases, a Panel may be set up to hear your complaint. The Panel process is normally completed within four months from the date it is set up.

A Panel consists of three members of the public who will consider your complaint and look at the information that is still in dispute. They hear the views of all parties involved in the complaint. Everyone

involved is asked to attend, but no-one can be forced to go. You can take a friend, relative or advocate with you for support.

When the Panel review is completed, the Panel will report their findings, summarising the facts, conclusions and their recommendations.

At any point the Healthcare Commission has the right to reject your complaint or refer it to another body, for example, the General Medical Council or the Health Service Ombudsman. They will always explain the reasons why.

If you are unhappy with the findings of the Healthcare Commission, you can appeal against their decision to the Health Service Ombudsman.

Stage 3 - The Health Service Commissioner or Ombudsman (HSO).

If your complaint cannot be resolved during Independent Review or you are unhappy with the Healthcare Commission's decision not to grant an Independent Review, you have the right to appeal to the Health Service Ombudsman and ask her to review your case.

The Ombudsman is independent of the NHS and of the government.

The Ombudsman will not normally get involved unless you have already tried to resolve the problem using the NHS Complaints Procedure and you are still unhappy.

There could be several reasons for this, for example:

- It took too long to deal with the complaint locally
- You were unreasonably refused a review by the Healthcare Commission

- Your complaint did not get a satisfactory answer at any stage.

You should submit a complaint no later than one year from the date of the event you are complaining about (or from when you first became aware of the matter).

In exceptional circumstances the Ombudsman may extend this time limit. An example of this may be if the local resolution process took longer than it should have done.

A member of the Ombudsman's staff will initially assess your case and decide whether or not further action will be taken. They may need to see medical records and papers involved in the case.

The Ombudsman will not usually investigate a complaint where:

- The NHS provider or practitioner has done all that they reasonably could to put things right
- You just do not agree with a decision made by your NHS provider and cannot offer any evidence as to why the decision is wrong.

They may also refer you back to the Local Resolution stage of the NHS complaints procedure if they think you applied to them too early.

However, if the Ombudsman thinks that your complaint may be valid they will make more enquiries. They will write to you to let you know of their decision.

The Ombudsman may write you a detailed letter offering an explanation of exactly what happened and why.

They may ask the NHS provider or practitioner to provide a suitable remedy, or the Ombudsman may decide to carry out an in-depth investigation resulting in a detailed report about the case.

This investigation will be very thorough and may last up to nine months. As a result of this investigation a detailed report showing any findings and recommendations will be sent to all parties involved and the Secretary of State for Health.

If you do not agree with the Ombudsman's decision or findings you can ask for a review. The Ombudsman will consider your concerns and may look again at your complaint against the NHS.

The Ombudsman will write to you and let you know the outcome of their review of your concerns. If you are still not happy with this response, you can ask them to review your concerns again.

They will again consider your concerns but will not usually re-investigate or re-consider your complaint in depth.

Very rarely during either review process, the Ombudsman may find an error in the investigation and will re-open the whole complaint again or just a part of it.

There is no appeal after this second review, and the NHS Complaints Procedure comes to an end.

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.

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 sample "consent 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.

My father died and I didn't have his consent to act for him. Can I complain 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 can decide not to accept you as a suitable representative: they may suggest another person. You can appeal against this decision by writing to the Healthcare Commission (see Useful Addresses).

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

Not usually. If a young person under 16 does not have the capacity to make a decision about their treatment, only a parent or guardian may complain on behalf of their child without permission. For more information on mental capacity, contact lucybonnerje@dh.gsi.gov.uk

Can I complain about something that happened in the past?

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

- within 6 months of the incident happening
- or
- within 6 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: for example, you were too ill 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 through 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 compensation. The NHS Complaints Procedure does not deal with these cases. You can get free advice on whether or not to take legal action from an independent charity, **Action against Medical Accidents** or speak to a solicitor (see Useful Addresses on the Carers Federation website).