

The Parliamentary and Health Service Ombudsman



**Independent
Complaints
Advocacy**

The Parliamentary and Health Service Ombudsman, or PHSO as it is also known, is the second and final stage of the complaints process. More information about the first stage Local Resolution can be found in the sheet “Making an NHS Complaint”.

Who is the Ombudsman and what does she do?

The current Parliamentary and Health Service Ombudsman is currently Rob Behrens, and his offices specifically undertake independent investigations into complaints that the NHS services in England has not acted properly or fairly, or has provided a poor service. The Ombudsman’s office will normally only take on a complaint after efforts have been made to resolve the complaint locally, with the practice or trust, and a response has been received.

It is the Ombudsman’s view that a practice or trust should be given a chance to respond and, where appropriate, try to put things right, before they become involved.

Once a submission has been made to his offices, his team will investigate the way your complaint has been handled, considering three things known as The Ombudsman’s principles. These are Maladministration, Un-remedied Injustice and if there will be a Worthwhile Outcome. It is highly unlikely that the Ombudsman will review your case himself, but he has a large team of assessors and clinical advisors who work on his behalf at offices in London and Manchester.

Completing the form

There is a form which should be completed for submissions to the Ombudsman’s office which asks you to give a brief summary of the complaint so far. You may find it useful to speak to an advocate about this, to decide the issues you wish to include. Sometimes, you might decide that you want to draft a covering letter for the Ombudsman which outlines your issues and the progress the complaint has made.

It is quite acceptable to write ‘please see covering letter’ rather than complete the various boxes on the form. If you do this please ensure by doing so you do not miss out any information that is requested in the boxes including what you wish to achieve as an outcome.

A submission should include copies of all relevant correspondence about the complaint. This might be letters of complaint, trust responses, meeting minutes, action plans or emails sent and received. These should be organised into date order and you can refer to the attached correspondence in Section 6 ‘What was your original complaint...’

The PHSO process

When a case is received at the PHSO it is assessed initially to see if it falls within their remit (i.e. is it a health complaint? has it already been raised with the service provider?) They will then go on to assess it using the three principles mentioned before: Maladministration, Un-remedied Injustice and if there will be a Worthwhile Outcome of them accepting it for investigation.



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What happens now?

Once a complaint has been submitted, it should be acknowledged within 5 working days. This letter should also say who will be managing the response, and give a reference number to quote in future correspondence or on the phone. It might be a good idea to make a note of this for future reference. This will then be passed on to an assessor who may telephone you to discuss your complaint and should write to you to say if the case has been accepted for further investigation or not within 40 days of it being received at their offices.

The case is accepted for investigation

If the Ombudsman feels that the case has met the criteria, it will be allocated to a caseworker for further investigation. For this, the PHSO will normally access the medical records for the patient, and may seek clinical advice or a second professional opinion. They may make recommendations for the trust, or they do have the capacity to make ex-gratia payments for inconvenience, hardship or to return the complainant to the position they were in before. They can also recommend that a service or trust compensate an individual and specify an amount. This is different to compensation for medical negligence, but the Ombudsman's helpline will be able to discuss this with you in more detail.

The case is refused for investigation by the PHSO

If a case is refused it may be for several reasons:

- It is Premature – Local Resolution has not been exhausted
- The case falls outside of their remit i.e. Is about private treatment
- It is 'out of time' for approaching the PHSO – over 12 months since the incident you are complaining about
- The Ombudsman feels that the NHS Body has made reasonable efforts to resolve the complaint

So what happens if the Ombudsman decides not to investigate your case?

You can complain about a decision which has been made by the Ombudsman by approaching the Caseworker within one month of the final report.

They will not consider a review of the complaint if you simply 'disagree' with their decision; a submission needs to be made to them detailing why you are unhappy or if there are things you think have not been considered fully. The Ombudsman's office complaints policy states that they will aim to respond to these issues within 16 weeks, but once received; the decision is final.

The end of the process

Once a case has reached this point, it has now completely exhausted the NHS Complaints Procedure, and can no longer be supported by an NHS complaints advocate.

The only remaining option if you are unhappy would be to submit your case for Judicial Review. This is a legal process and is beyond the expertise of an advocate. You would need to seek the advice of a solicitor for this. A complaint cannot progress to Judicial Review without first appealing the decision of the PHSO.

Are there any exceptions?

You can approach the Ombudsman before your case has finished Local Resolution if there are exceptional circumstances, for example if you have been diagnosed with a terminal condition. This does not mean that they will investigate the complaint rather than the service provider, but they could try to speed up the process by contacting them and explaining the situation, or maybe even suggesting a remedy to the complaint, depending on the complexity or urgency of the case.