



## Your step by step guide to making a complaint to the NHS



## Independent Complaints Advocacy

If you are unhappy with the service you or others have received from an NHS Service, you have the right to raise these concerns. This can help to put things right. It gives the NHS a chance to learn from what has happened. Outcomes that can be achieved through making a complaint are an explanation, an apology, service improvements or financial redress. This is usually reimbursement for costs that you have incurred, not medical compensation.

### **Are you unhappy with something that is happening right now?**

If yes, It may be that your best option is to try and resolve these issues informally by making a member of staff aware. This is often the quickest way to put things right.

You can also speak to the Patient Advice and Liaison (PALS). They provide information, advice and support to patients, families and their carers and can help you to get answers to your questions quickly. PALS is run by NHS staff.

### **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,
- You wish to raise complex issues
- The issues involved concern more than one organisation

This booklet will explain what the NHS complaints procedure does and doesn't cover and will help you to understand how it works

Independent Complaints Advocacy can provide support and guidance to help you decide what you would like to do. An ICA Advocate is able to support you to make a formal complaint.

The NHS Complaints Regulations state a complaint must be made within 12 months of the incident happening or within 12 months of you realising you have something to complain about



The NHS organisation can waive this time limit if there are good reasons why you could not complain earlier. You can state these reasons in your complaint letter.

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## 1. About this booklet

**Everyone has the right to make a complaint if they feel that something has gone wrong. You have the right to complain, have your complaint investigated, and be given a full and prompt reply.**

This document can be used as a reference tool as you work through the complaint with your ICA Advocate, or you can use it to make a complaint by yourself.

You can find a copy of The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 at [www.legislation.gov.uk](http://www.legislation.gov.uk)

## **2. What is covered by the NHS complaints procedure**

**It applies to all NHS funded or provided services. This includes GP's, hospitals, dentists, opticians, hospitals, pharmacies and the ambulance service. Included in this is NHS funded nursing home care or home based care package funded by the NHS.**

If your complaint is about Continuing Healthcare, an ICA Advocate is able to support you to complain about aspects of this. If you are unhappy with the care or treatment, or the way you have been treated, you can make a formal complaint about this.

If you are appealing a decision about funding or disagree with a decision, there is a separate process for this which falls outside of the NHS complaints procedure. Your local CCG is responsible for informing you about the review/appeal process for Continuing Care – and it must do this at the same time as it informs you of its Continuing Care eligibility decision. You can also contact NHS England—The commissioner for primary care services in the UK. Their contact details are:

**Telephone: 0300 311 22 33**

**Email:** [england.contactus@nhs.net](mailto:england.contactus@nhs.net)

**Post:** NHS England, PO Box 16738, Redditch, B97 9PT

**British Sign Language (BSL):** If you use BSL, you can talk to NHS England via a video call to a BSL interpreter.

### **Complaints not covered by the NHS Complaints procedure**

1. Social Care or other services provided by the council
2. Privately funded health, nursing home or home based care.
3. Personnel matters such as getting staff disciplined.
4. Legal issues and medical negligence compensation.
5. Contractual matters and consultations about service changes.

At the back of this booklet there is a section called: Matters not covered by the NHS Complaints procedure. Here you will find further information.

### 3. Who do I complain to?

#### **A complaint can be made verbally or via writing (letter or email).**

If your complaint is about a hospital, mental health service provider, community services provider or ambulance service, generally complaints are made to the NHS Trust responsible for that service. You can address your letter to either the Complaints Department or the Chief Executive. Your ICA Advocate will be able to provide you with further information about this.

You can ring the organisation and ask to speak to the person who handles complaints or look on their website for further information.

If your complaint is about a GP, dentist, optician or pharmacist, or any member of staff who works in the service you have a couple of options when making your complaint. You can:

1. Contact the practice manager of the service and ask to speak with who deals with their complaints. You can speak with them informally to try to resolve your issues first. If the issues do not get resolved fully you can raise your concerns as a formal complaint, usually in writing. However if you have difficulty doing this you can ask to make your complaint verbally and it should be arranged for a written report to be taken from you.
2. If there is a difficulty in contacting the Practice directly, you can speak with NHS England to share your concerns. NHS England are responsible for commissioning Primary Care Services in England. Their contact details can be found in section 2 of this booklet.

If your complaint is about an Independent NHS Contractor or a service that is 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 should be able to provide you with this. You can also look online at the services website to establish where to send your complaint.

#### **If your complaint is about more than one service**

Under the NHS Complaints Regulations, you are able to ask for a coordinated response to your complaint. This is where you have a complaint that involves more than one NHS organisation. You can request that one organisation takes the lead on your complaint, usually the organisation where most of your concerns are about.

The lead organisation would liaise with the other services, with your consent, to provide one full investigation response.

You can also send them as separate complaints. You can speak to your ICA Advocate about this to help you decide which option is best for you.

## 4. Who can complain?

**You can make a complaint about your own care and treatment or a service failure that has affected you.**

You can also make a complaint on behalf of:

- Someone who has died,
- A child,
- Someone who cannot complain for themselves because of- Physical Incapacity or lack of Mental capacity under the Mental Capacity Act 2005.
- Someone who has asked you to do so provided they have given written consent.

Written consent will be asked for by the NHS organisation that you are making the complaint to.

### **Complaining on behalf of a child**

The organisation you are making the complaint to will only consider the complaint if they are satisfied that there are reasonable grounds for you to make the complaint instead of the child. If the NHS is not satisfied, they must notify you in writing and state their reasons for their decisions.

The NHS organisation also needs to be satisfied that the complaint is in the best interests of the child. This is also applicable where complaints are being made on behalf of a person who lacks mental capacity. If a decision is made not to investigate, they must let you know their reasons why they have made this decision, in writing.

The Independent Complaints Advocacy do support children and young people to make a complaint themselves.

### **Consent**

An NHS body usually request consent (where appropriate) from the patient to investigate and release details to the complainant. This is because some of the information provided is personal and is covered under the Data Protection Act. If it is not possible to provide this consent, the organisation may not be able to provide a complete response. They may be able to provide a letter which answers the concerns generally, not providing any personal or specific details about the client.

## 5. Using the complaints process

This section applies to people who have decided to make a formal complaint, in line with the regulations.

The complaints process is a two part process:

1. **Local Resolution stage**- This is where you liaise with the NHS Organisation to raise your concerns to try to reach a resolution.
2. **The Parliamentary and Health Service Ombudsman**- They are an Independent Organisation that make final decisions on complaints that have not been resolved by the NHS in England. There is more information about submitting your complaint to the PHSO in Section 9 of this booklet.

There are certain things that should happen when you submit your complaint.

There may be more specific details in the local complaints policy for each organisation. However generally under the regulations you can expect the following:

- Your complaint should be acknowledged in writing within 3 working days of the department receiving your complaint. This letter usually informs you of who will be managing your complaint and a timeframe in which they expect to have the investigation completed. If you don't receive an acknowledgment in this time frame, you may want to consider calling the department you sent your letter to, to check they have received it.
- If the timescale that is given needs to be extended, the NHS organisation should write to you to inform you of this, or they will contact you to agree a new date. Timescales can be affected by the complexity of the complaint, the amount of people who need to be contacted or ease of access to your medical records.
- An investigation will take place into the concerns you raised.
- Information about the complaints procedure should be provided and also, information on who your local Independent Complaints Advocacy provider is.

You may be invited to attend what is called a Local Resolution meeting (LRM) to discuss the findings of the investigation. There is more information about Local Resolution meetings in Section 7 of this booklet.

NHS organisations are encouraged to review complaints that have taken longer than 6 months, to ensure that all is being done to resolve the issues.

If your complaint response letter has not been sent to you within 6 months, and an extended timeframe has not been agreed, you can speak to the Parliamentary and Health Service Ombudsman about this.

## 6. Writing a complaint letter

### Tips for writing your letter

- Be clear about who the complaint is about. Use their full name and Date of birth so they can be easily identified.
- Try to keep your letter concise and to the point- issues can get lost in a long account of what happened.
- Consider using a timeline of events if your complaint covers a number of months or requires a lot of detail. You can list your questions and issues separately.
- Be factual and avoid aggressive language. Or comments which could be considered aggressive.
- Try to avoid repetition of the same points.
- You could group issues together by theme to organise your letter e.g Medication, attitude etc.
- Ask definite questions, and for the organisation to investigate specific issues.
- Include the date.
- Include that you are making a formal complaint under the NHS complaints procedure.
- If you are working with an ICA Advocate, include their contact details on the letter to ensure they are copied into any correspondences that you receive about your complaint.

Don't be afraid to talk about how the issues have affected you and explain what you would like to achieve through making a complaint.

You can make suggestions about improvements to be made to the service/policies/processes.

Include a contact number on your letter to enable the NHS organisation to contact you should they need clarification on any issues you have raised. You can also state in you letter if you would like to have a meeting with the NHS to discuss your complaint

Some people choose to share their experiences when they feel they have received good care and treatment.

You can also include in your letter, details of how you may have tried to resolve the issues informally.

You can use the template letter in this booklet as a guidance for writing your own letter.

### Before you send your letter

Read it to make sure you are happy with the content and that it includes everything you want to say.

Sign at the end of your letter to avoid delays with the investigation.

Keep a copy of your letter to refer back to when reviewing your response. It could be helpful to keep a copy of all letters sent and received in date order.

# SAMPLE LETTER

1 The Avenue  
Anytown  
AT1 2AB  
Tel: 01234 5678910

Mr Tom Smith  
Complaints Manager  
The Old Surgery  
2 The Street  
Anytown  
AT1 2CD

Dear Mr Smith,

**Re: NHS Complaint – Mr Bob Jones, DOB 10/05/1956**

I wish to raise a complaint in line with current NHS complaint procedures regarding the care and treatment Bob received at The Old Surgery on 15/01/2016. I am writing on behalf of Mr Bob Jones as he is currently unwell and unable to make the complaint himself.

I have detailed below the circumstances and sequence of events that have led to the submission of this complaint.

**Overview of my complaint**

Bob is unhappy with the way that he was spoken to by a member of the reception staff at The Old Surgery. He feels that it was inappropriate and unhelpful.

**Details specific to my complaint**

Bob went for a routine checkup with his GP on 15/01/2016. He sat in the waiting area, he noticed that his appointment was running late.

After around 20 minutes after his appointment was due, he went to speak to the reception staff to ask what was going on.

Bob spoke to a gentleman who informed him that there was a delay and it was unavoidable, it could have been due to a patient emergency. Bob said that he understood this and asked if the receptionist knew how long the delay was going to be for.

The gentleman responded to Bob in a discourteous manner.

Bob feels that this was not an appropriate manner in which to speak to a patient. He feels that the member of staff should have explained things to him in a polite way.

**As a result of this complaint the outcomes I am seeking are:**

**An apology for the way in which he was treated.**

**For the reception staff's attitude to be reviewed.**

I look forward to receiving an acknowledgement to this letter to discuss the manner in which my complaint will be handled and the response time within which the investigation is likely to be completed.

Yours sincerely

Mrs Sue Jones

## 7. Local Resolution meetings

Under the Complaints Regulations you can ask to have a meeting to discuss your complaint. This is a Local Resolution Meeting (LRM).

In some cases you may be invited to attend an LRM once you have submitted your complaint to the NHS organisation. You don't have to attend a meeting if you don't want to.

Here are some points to consider before you make a decision about attending a meeting.

- The meeting is usually held at the NHS organisation in which the complaint is about. You can let the NHS know of any needs you have to ensure that the room is accessible.
- Sometimes staff that you have complained about may be at the meeting. You can request that specific staff do not attend. In this scenario a Senior member of staff will attend in their place.
- In the same way, you can also request that certain members of staff do attend.
- You can take a family member or friend to the meeting with you and you can also be accompanied by an ICA Advocate to attend this meeting.
- An ICA Advocate can support you to prepare and attend the meeting. During preparation you can discuss the support your Advocate will provide.

### During the meeting

- Meetings should be recorded, usually via audio CD or sometimes minutes are taken. You will be asked for your permission for an audio recording to take place. Minutes are not verbatim. An ICA Advocate is unable to bear witness to what has been said in a meeting and is unable to take notes.
- People in the meeting will introduce themselves.
- You or your ICA Advocate can ask for a break.
- You can ask for clarification on points raised.
- You should be informed of any actions that have been agreed and what happens after the meeting.

### After the meeting

- You can discuss how you are feeling with your ICA Advocate and discuss the next stage of the complaints process.
- You should receive a copy of the meeting minutes or audio CD.
- You can raise any further concerns or get clarification on issues raised by having a further meeting or writing a letter. In Section 9 of this booklet, you will find information about what to do if you are unhappy with a response to your complaint.

## **8. If you are unhappy with the response to your complaint**

### **You have the right to respond to the NHS Organisation.**

If the NHS Organisation are willing to communicate with you to try to resolve your issues, it may be worth considering the points below:

- You can write a further letter to the NHS explaining what you feel has not been covered.
- You can speak to the person who is dealing with your complaint to express your dissatisfaction and to explain why.
- You can request a meeting. If you have already had an LRM, you can request a further meeting. It is always at the discretion of the NHS organisation as to whether they facilitate this. If they decide that they are unable to, they should inform you in writing.

There may be a further investigation period and a new timescale will be agreed.

Usually the Ombudsman will only consider cases that have been through the first stage of the complaints procedure, and that every effort has been made to resolve this matter locally. The Ombudsman will usually ask that the NHS organisation has had a chance to respond and where appropriate, to put things right before they are involved.

A submission to the Ombudsman will usually ask you to provide the final response you have had from the NHS Organisation you are making the complaint about.

You can speak to the Independent Complaints Advocacy to establish what your options are and at which part of the complaints process you are at.

## 9. Taking your complaint to the Parliamentary and Health Service Ombudsman

The Parliamentary and Health Service Ombudsman, or PHSO as it is also known, is the second and final stage of the complaints process.

### What does the Ombudsman do?

The Ombudsman is a free, confidential and independent organisation that undertake independent investigations into NHS complaints. They make final decisions on complaints that have not been resolved by the NHS in England.

### Completing the form

You can submit your complaint using a form that the Ombudsman provide. This can be found on their website :

<http://www.ombudsman.org.uk/make-a-complaint>

You can fill in an online form or you can download a form to complete in writing or using your computer.

### The PHSO process

When a submission has been made to the PHSO's offices, it will initially go through an assessment process. The Ombudsman will check that the complaint falls within their remit, to check if the complaint has been made previously and if Local Resolution has been exhausted.

Three principles will be applied:

Maladministration, Un-remedied Injustice and if there will be a Worthwhile Outcome of them accepting it for an investigation.

### What happens next?

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 will provide a reference number to quote for future communication with the PHSO. Your complaint will then be passed onto an assessor who may call you to speak about your complaint, and they will write to you to let you know the decision about whether your complaint has been accepted for investigation or not. This should happen within 40 working days of it being received in their offices.

### If your case is accepted

If the Ombudsman feel that your complaint meets their criteria, it will be allocated to a case manager for further investigation. The PHSO will normally access 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 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 medical negligence, the Ombudsman's helpline will be able to discuss this with you in more detail.

## **If your case is refused for investigation by the PHSO**

If your case is refused, it could be for a number of reasons:

- It is premature - Local Resolution has not been exhausted
- The case falls outside of their remit i.e. it 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 Trust have made every reasonable effort to resolve the complaint.

## **What happens if the PHSO decides not to investigate your case?**

You can complain about a decision which has been made by the Ombudsman by contacting the Customer Care Team. They will not consider a review of your complaint if you simply 'disagree' with their decision; a submission needs to be made to the Customer Care Team covering one or all of the points identified on their form:

- A decision has been made on information that is inaccurate and could change their decision
- You have new or relevant information that was not previously available and which might change their decision; or
- They overlooked or misunderstood parts of your complaint or did not take account of relevant information, which could change their decision

You can speak to the Customer Care Team about this. The Ombudsman's office complaints policy states that they aim to respond to these issues within 16 weeks, once received, the decision of the Customer Care Team is final.

You can access the forms for the Customer Care Team review form, on the Ombudsman's website.

## **The end of the process**

Once your case has reached this point, it has now completely exhausted the NHS complaints procedure and can no longer be supported by an ICA Advocate.

You can submit your case for a Judicial Review. This is a legal process and is beyond the expertise of an Advocate. You would need to seek legal advice from a solicitor about this.

You can also share your experience with Patient Opinion. They are the UK's independent non profit feedback platform for health and social care. You can share your story to help make services better. Their website is:

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

## **Are there any exceptions?**

You can speak to the Ombudsman before your complaint has reached local resolution if there are exceptional circumstances, for example if you have been diagnosed with a terminal illness. This does not mean that they will investigate the complaint instead of the service provider, but they could try to speed up the process by explaining the situation.

## 10. Accessing medical records

Under the Data Protection Act 1998, you have the right to see your medical records. Sometimes this is known as a Subject Access Request.

If your doctor thinks that viewing the information contained in your records, could cause harm to you or another person, you may be refused access to some parts.

### Applying for your records

- Some organisations have a form that you would need to complete. Some larger NHS organisations such as Hospital Trusts may have a designated department dealing with these requests.
- Records should be made available within 40 days of applying to see them, or 21 days if they have been added to within last 40 days.
- You can request someone to view your records with you and explain anything in there which is not easy to read or uses technical, medical language.
- You can request copies of the records, NHS bodies can charge up to £50 for this.
- You can also request copies of electronic records held about you. The Information Commissioners Office state that this should cost no more than £10.

Charges can sometimes be waived if they are requested in connection with a complaint. You will need to check with the individual organisation. To help reduce cost and time it may take to access records, you can consider whether asking for a specific section of care and treatment you are interested in. For example a specific department or time period.

An Advocate is able to provide you with information about medical records access, however is unable to help you access or understand them. An Advocate can help you to use details from the medical records in a letter or complaint or for a meeting.

Under certain circumstances you can apply to access someone else's records. Information about this can be found on the NHS Choices website.

Usually during a complaint investigation, medical records will be accessed by relevant people at the NHS body. They will send you a consent form which you would need to sign and return in order for this investigation to proceed.

## Matters not covered by the NHS complaints procedure

### Compensation for clinical negligence or other legal claims

If you wish to seek compensation you will need to seek legal advice.

You can speak to a solicitor and seek guidance from an organisation called AvMA. They are a UK charity that provide support and advice to people affected by medical accidents (lapses in patient safety)

#### AvMA

Action against Medical Accidents, Freedman House, Christopher Wren Yard, 117 High Street, Croydon, CR0 1QG

**Helpline-** 0845 123 23 52 (helpline only – Mon-Fri 10am - 5pm)

**Website-** <http://www.avma.org.uk/>

### Disciplinary action against NHS staff

The NHS complaints procedure cannot be used for personnel matters such as obtaining disciplinary action against a member of staff.

You can contact the relevant professional regulatory body. Links can be found on our website : [www.manchesteradvocacyhub.co.uk](http://www.manchesteradvocacyhub.co.uk) under the tab 'Independent Complaints Advocacy'.

### Contractual or commercial matters

The complaints procedure can not be used in commercial or contractual disputes. You may wish to seek legal advice.

### Complaints about social care

You will need to contact your local authority or visit their website to find out more about their complaints procedure.

For Manchester residents you can contact the Customer Feedback Team at Manchester City Council

**Address-** Customer Feedback, Corporate Complaints Team, PO Box 532, Town Hall, Manchester, M60 2LA.

**Telephone-** 0161 234 3012

Email- [dfafeedback@manchester.gov.uk](mailto:dfafeedback@manchester.gov.uk)

**Website-** <http://www.manchester.gov.uk>

On the next page you will find a list of useful contacts. Links are also available on our website.

**You may be entitled to Advocacy support under the Care Act where you have concerns about Social Care processes . You can contact the Manchester Advocacy Hub for further advice and information regarding this.**

**Tel: 0161 214 3904**

**Email: [advocacy@gaddum.co.uk](mailto:advocacy@gaddum.co.uk)**

## Useful contacts

### **The Parliamentary & Health Service Ombudsman**

Millbank Tower, Millbank, London, SW1P 4QP.

Tel: 0345 015 4033

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

### **Health Professional Council**

Park House, 184 Kennington Park Road, London, SE11 4BU

Tel: 0300 500 6184

### **General Medical Council**

Fitness to Practise, General Medical Council, 3 Hardman Street, Manchester, M3 3AW

Tel: 0161 923 6602

Email: [Practise@gmc-uk.org](mailto:Practise@gmc-uk.org)

### **General Dental Council**

37 Wimpole Street, London, W1G 8DQ

Tel: 0845 222 4141

Email: [complaints@gdc-uk.org](mailto:complaints@gdc-uk.org)

### **Nursing and Midwifery Council**

1 Kemble Street, London, WC2B 4AN

Tel: 020 7637 7181

Email: [Fitness.to.practice@nmc-uk.org](mailto:Fitness.to.practice@nmc-uk.org)

### **General Optical Council**

10 Old Bailey, London, EC4M 7NG

Tel: 020 7580 3898

Email: [goc@optical.org](mailto:goc@optical.org)

### **Action Against Medical Accidents (AVMA)**

Freedman House, Christopher Wren Yard 117

High Street, Croydon, CR0 1QG

Tel: 0845 123 23 52

Website: [www.avma.org.uk](http://www.avma.org.uk)

### **Information Commissioners Office (ICO)**

Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Tel: 0303 123 1113 or 01625 545 745

Email: [casework@ico.org.uk](mailto:casework@ico.org.uk)

### **Care Quality Commission**

Citygate, Gallowgate, Newcastle Upon Tyne, NE1 4PA

Tel: 03000 61 61 61

Email: [enquiries@cqc.org.uk](mailto:enquiries@cqc.org.uk)

Website: [www.cqc.org.uk](http://www.cqc.org.uk)

### **Healthwatch England**

Email: [enquiries@healthwatch.co.uk](mailto:enquiries@healthwatch.co.uk)

Tel: 03000 683 000

Website: [www.healthwatch.co.uk](http://www.healthwatch.co.uk)