



THE NHS COMPLAINTS PROCEDURE (ENGLAND)

If you are not happy with the medical treatment that you or a family member has received under the National Health Service it is your right to have your concerns investigated and to be given a full and prompt response by the treating body. This is known as the NHS Complaints Procedure.

What are the potential stages of the NHS Complaints Procedure?

Stage 1 Local Resolution

Stage 2 The Independent Review (The Ombudsman)

Helpful Hints

Keep a record of all telephone calls including dates and contacts.

Keep copies of all correspondence sent and received.

Keep copies of meetings attended and reports on the content and outcome of the meeting.

Which services are covered by the NHS Complaints Procedures?

All NHS Trusts and NHS Bodies including NHS Foundation Trusts

Family Health Services provided for the NHS by GPs, Dentists, Opticians or Pharmacists.

Primary Care Trusts.

Private Health Care establishments if the treatment has been paid for by the NHS.

What do I want to achieve?

It is important to think about what you want to achieve before putting in your complaint and what the NHS can do to satisfy this. You may not need to make a formal complaint. If you are more concerned about having something put right or registering a concern informally, you are normally better off raising this directly with staff concerned or their managers. If you prefer, you can ask to speak to a Patient Advice and Liaison Service (PALS) Officer. They will try to resolve your problem and provide feedback to the NHS Body.

Under the NHS Complaints Procedure at present the following can be obtained:

An explanation for what happened.

An apology or other statement of regret.

Steps to review procedures to avoid such incidents in future.

In general the NHS cannot:

Offer financial compensation (although in some circumstances NHS bodies will agree to an ex-gratia payment for relatively small sums)

Address issues of staff discipline for instance sacking staff or striking off a practitioner (although disciplinary action may result as a consequence of information obtained through complaints investigations).

Address private treatment unless financed by the NHS.

Is there a time limit for making a complaint?

Your complaint should be made no later than 12 months after the event(s) in question or from the date that you were first made aware of the issues in question. However it is advisable to make your complaint as soon as possible so that your and other people's recollection of events is fresh. NHS organisations do have discretion to consider complaints outside these time limits and can consider aspects such as the duration of your illness.

Where do I start?

Stage 1 : Local Resolution

If you would like your complaint to be dealt with more formally (for example if you would like to receive a written response to your complaint) you should use the NHS Complaints Procedure. The first stage of this is called Local Resolution, where the NHS body or family health service practice is required to investigate and respond to your complaint.

A complaint can be made orally, in writing or electronically. Where a complaint is made orally the healthcare provider to whom the complaint is being made must make a written copy of the complaint and provide a copy of the written record to you. Ideally, we would advise that your complaint is made in writing and addressed to the Chief Executive or, in the case of family health services, the Complaints Manager at the practice concerned. (However, you can now complain directly to the Primary Care Trust for your area). In summary, you should include:

Who or what you are complaining about.

Where and when the events happened.

What you have done already about the complaint.

What result you want - this can include any issues about clinical matters, which the hospital may be able to offer you help with. For instance, if your fertility has been affected by treatment can the hospital guarantee the provision of fertility treatment or pay for the treatment to be carried out?

What happens next?

The healthcare provider to whom the complaint is directed must provide you with an acknowledgement of your complaint no later than 3 working days after it has been received. At the same time you should also be:

Offered the opportunity to discuss your complaint

Advised of the way in which your complaint is going to be investigated

Be advised of the time period within which the investigation of your complaint is likely to be completed

When you are likely to receive the response and conclusion to your complaint – if there is likely to be a delay in concluding the investigation and providing you with a response, then you should be notified in writing and given an explanation as to the reason for this.

At the end of the investigation you should receive a formal written response. Sometimes as part of the investigation you may be invited to meetings. Meetings can be very helpful particularly where there are complex medical issues. However you should be well briefed and prepared for such meetings.

After any meeting if the NHS organisation considers that the matter has been adequately addressed, then they should send you a full written response concluding the Local Resolution stage of the complaints procedure. This should also tell you what to do next if you are not satisfied.

At the conclusion of any meeting it is a good idea to remind the Complaints Manager that you wish to have a full written response.

It is open to you to talk over the meeting with the Complaints Manager beforehand and you may wish to consider:-

What form will the meeting take?

Who will attend - sometimes complainants do not want to see staff members who have been involved in the incident in question. In other cases you may be disappointed to find that the staff involved, are not available.

Ask where the meeting will be held and how long it will take. This is important if you are still recovering from an illness as you may not feel able to attend the whole meeting and can tell the Complaints Manager in advance if you have any difficulties with this.

It is always a good idea to make a succinct list of your questions for any meeting and to give a copy of this to the complaints manager before the meeting – keep a copy to take with you.

Think about taking a friend, relative or advocate to the meeting for support and to take notes.

Do not agree with anything at the meeting that you have reservations about.

Helpful Hints

If you make an informal complaint, take the name of the staff member with whom you have lodged the complaint. The date when you complained and what you were told they would be doing to address your complaint.

Whilst there is no formal time limit for the NHS to investigate and respond to your complaint, the whole process should be discussed and agreed with you including any extensions. Where an unreasonable amount of time is taken, you can appeal to the Ombudsman.

Whilst the complaints procedure is not specifically designed to award compensation, NHS bodies do have the discretion to make 'ex-gratia' payments. There is no harm in asking for this, but if the amount requested is very substantial it may be more appropriate to take legal action. As of 1st April 2009 there is no automatic bar on your taking legal action and having a complaint investigated at the same time.

What happens if I am not happy with the response to my complaint?

If you are not satisfied with the response to your complaint, you have the right to request an **Independent Review** by the Health Service Ombudsman of your complaint. However, an Independent Review is unlikely to be granted if it is considered that more should be done to resolve the complaint at Local Resolution stage.

Obviously the NHS organisation cannot solve all medical problems that you have or turn the clock back to how things were before the events complained of, but they should try and answer all your concerns and try to provide as comprehensive an explanation as possible. If you think that they have not done this, you can ask them to take further steps such as asking for further investigation or examination of the medical records. One option is to ask the hospital to consider obtaining or funding an independent report from a medical expert which can be very helpful in resolving any dispute about the medical issues relating to your complaint.

You may like to consider:-

Does the response explain things in a way that you understand? If the reply contains too much medical jargon you can ask for this to be put into layman's language.

Does it tell you how the investigation was carried out, for instance were the staff involved in the care complained of interviewed?

Are there any other matters you are still concerned about?

Often the formal response to your complaint will offer a further meeting to clarify any outstanding issues. This can be useful, and may help clarify issues without the formality and delay involved in an Independent Review. However you are not obliged to take this option. It is your right to request an Independent Review at this stage. You and the body also have the option of continuing to try to resolve the complaint locally in writing. If you agree to a meeting, the same principles apply as with earlier meetings during Local Resolution – you will need to clarify what you remain dissatisfied with and why (usually in writing). Following any such meeting, or further correspondence under local resolution, you should be provided with a further formal written response dealing with these issues, **and you still have the right to ask the Ombudsman to investigate.**

Stage 2: Independent Review by the Health Service Ombudsman

If you have attempted Local Resolution and are not happy with the result, or the organisation you have complained about has not completed its investigation within six months, you have the right to ask for an Independent Review of your complaint. In England, from March 31st 2009 the current complaints system will be streamlined from a three stage to a two stage process. The Parliamentary and Health Service Ombudsman will take responsibility for the Independent review stage of the NHS Complaints Procedure. As well as complaints about healthcare, the Parliamentary and Health Service Ombudsman and the Local Government Ombudsman will be able to work together on complaints that cross the boundaries of both health care and social care.

You should make a request for an Independent Review within **12 months of the incident in question occurring or when you first became aware that something had gone wrong**. You should try to abide by this time limit but if it is not possible it is always a good idea to ask the Ombudsman to consider your request, particularly if you have a good reason for the delay such as trying to obtain other advice.

The Ombudsman has also made it clear that one of the remedies that should be considered where appropriate is financial compensation. If the amount of financial compensation sought is very large or if responsibility for a failing is denied, however, it may be necessary to take legal action (see separate leaflet).

Your statement should include:

- A summary of the events in question.
- Details of the main issues of concern.
- Details of what action has been taken so far.
- Details of the aspects that you remain unhappy with.
- Why you feel that further action under the Local Resolution stage of the complaint would not adequately address the issues.
- Why you think an Independent Review would be helpful.

What can the Ombudsman do?

If your complaint is found to be justified the Ombudsman will seek an apology or other remedy for you. This may include calling for changes to prevent such an incident happening again or reviewing procedures.

The Ombudsman has also made it clear that one of the remedies that should be considered where appropriate is financial compensation. If the amount of financial compensation sought is very large or if responsibility for a failing is denied, however, it may be necessary to take legal action (see separate leaflet).

What will happen after I have sent my complaint to the Ombudsman?

Once your case has been received by the Ombudsman they will let you know within 5 days who your contact person is who you can call upon for information about how your complaint is progressing.

How long will it take to resolve my complaint?

Many of the cases being considered by the Ombudsman will be dealt with in a matter of months and it has been advised that around 80% will be dealt with within 40 working days. However some cases may take longer depending upon the circumstances and complexity of the complaint.

How will my complaint be dealt with?

Each case will be looked at individually. The Ombudsman will examine the issues that have been raised and how the complaint has been handled at local level. Where appropriate the Ombudsman will take clinical advice and then make a decision.

What happens if I am unhappy with the Ombudsman's response to my complaint?

If you are unhappy about the decision made by the Ombudsman you can ask for a review by a special team who consider complaints about the Ombudsman.

How can I get independent help and advice with the independent review stage?

Your local provider of Independent Complaints Advocacy Services (ICAS) should be able to advise you and may be able to help draft correspondence or accompany you to meetings. To find your local ICAS provider either see our website www.avma.org.uk or telephone NHS Direct on 0845 4647.

AvMA's own caseworkers can advise you on clinical or medico legal aspects of your case. Helpline Number: 0845 123 23 52 (Mon- Fri 10am-5pm). Further information sheets can also be downloaded from our website, from where you can also submit a new client form electronically: www.avma.org.uk

The telephone contact details for the Parliamentary and Health Service Ombudsman are:

Helpline: 0345 015 4033

You can also write to them at:

**The Parliamentary and Health Service Ombudsman
Millbank Tower
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