

The NHS Complaints Procedure in Scotland

In Scotland the NHS Complaints Procedure is now a two stage process:

- First stage:** Local Resolution
- Second stage:** Scottish Public Services Ombudsman

Local Resolution

This is the first stage of the Complaints Procedure and its intention is to resolve the complaint at local level. Your complaint should be made to the Chief Executive or Complaints Officer either by telephone, in writing or in person. We would advise that you make your complaint in writing and make a copy of this and further written correspondence that you may have with the health provider that you are complaining about.

Is there a time limit for making a complaint?

You should normally complain as soon as possible in order that you or other people's recollections of events are fresh. Usually complaints should be made within six months of the events complained of or within six months of finding out there was something to complain about (as long as this is not more than one year after the incident)

Who can complain?

- A patient or former patient
- Any appropriate person on behalf of a patient who has died, for example: next of kin or their agent.
- An appropriate person on behalf of an existing or former patient, for example: the patients parent, carer, guardian, an MP, MSP or local Counsellor, advocate or member of an independent advice and support organisation.

When a person other than the patient or authorised agent is intending to make the complaint it is important to note that they must be able to demonstrate that they have obtained consent from the patient, which would normally need to be in writing.

What can be complained about?

- NHS care provided by the following:
- Hospitals and care centres
- Family Health Services including GPs (General Medical Practitioners), General Dental Practitioners, Opticians and Community Pharmacists.
- Community Services that provide health services for example: Community Nurses, Community Dentists, Physiotherapists, Dieticians, Health Visitors.
- In Private Hospitals or care homes where the patient is funded by the NHS

- NHS funded catering, domestic and environmental matters
- Public Health issues such as the management of major incidents or outbreaks where the individual has been adversely affected.

What should I include in my letter of complaint?

- Who or what you are complaining about
- Where and when the events happened
- What you have done already about the complaint
- Any particular outcomes or actions you are looking for from your complaint

NOTE: The NHS Complaints Procedure can be brought to a halt if you indicate that you intend to take legal action. Even if you think you will take legal action, it may be in your interests not to disclose this. There is nothing to prevent you taking legal advice.

Who will investigate my complaint?

The Chief Executive (or designated Complaints Officer or a GP or dental practice) will be responsible for reviewing your complaint and ensuring that the necessary investigations have been carried out and any appropriate actions taken. Usually there will be a Complaints Officer or Manager responsible for this. Once this stage of the complaints process has been completed the Chief Executive should write to you and the letter should include the following:

- That all the relevant issues have been addressed and demonstrate that a thorough and fair investigation has been carried out.
- Where appropriate offer an apology
- Explain what action has been taken to prevent such a situation happening again
- Where areas of disagreement have arisen between you and staff in relation to the complaint, they should offer an explanation why no further action can or will be undertaken.
- Give a named member of staff who will be available to answer any questions or clarify any of the items in the letter of response.
- Explain to you who you need to contact if you are not satisfied with the outcome of the complaints procedure - this should include the details of the Scottish Public Services Ombudsman

How long should I have to wait for response to my complaint?

A full response should be given within 10 working days of receiving your complaint. If this 10 day time scale cannot be met, you should be informed of the reason for the delay and when you can expect a response. This should be within 20 working days of receiving your complaint.

Who do I contact if I am not satisfied with the outcome of my complaint?

If following the letter of response from the healthcare provider, you still feel that the issues in question have not been properly addressed or you disagree with the outcome, you can contact the Scottish Public Services Ombudsman. If there are issues which you feel are possible to resolve without recourse to the Ombudsman, it is advisable to respond explaining what errors or omissions have been made or what needs clarifying.

Stage 2: The Scottish Public Service Ombudsman

If you are dissatisfied with the response that you have received at the Local Resolution Stage of the NHS Complaints Procedure, then you can contact the Scottish Public Services Ombudsman. However, the Ombudsman can only consider your complaint if you have fully utilised the complaints system at the Local Resolution stage.

What can the Ombudsman investigate?

In relation to complaints about the National Health Service the Ombudsman can investigate the following but only in cases where they consider an injustice or hardship has been caused.

- Administrative failure
- Failure to provide a service
- Failure in a service provided

How do I make my complaint?

You will need to put your complaint in writing and include copies of all correspondence relating to the Local Resolution stage of your complaint. If you have difficulty in putting your complaint in writing, you can ring the Ombudsman's office to talk about your complaint and they may be able to recommend someone who can help you put your complaint in writing.

What is the time limit on making my complaint?

Your complaint should be made to the Ombudsman within 12 months of the events/incident in question occurring or within 12 months of you becoming aware that there were grounds for complaint.

How long will it take for the Ombudsman to investigate my complaint.?

Once the Ombudsman's office has received your complaint you should receive an acknowledgement within three working days. Within 20 days you should be informed that:

- No further action will be taken and an explanation
- If further action is indicated an explanation as to how they intend to proceed
- If further information is needed from you will advise you as to what you will need to provide them with in order that they can reach a decision for example: copies of relevant medical records.

Within a further 20 days if a decision has not been reached you should receive an explanation as to why not and what further action is being undertaken.

It is important to note that the length of time for reaching a decision about complaints will vary from case to case, particularly if the Ombudsman needs to obtain further information or seek professional advice. However they should keep you informed about what is happening on an ongoing basis.

What can be achieved from making a complaint to the Ombudsman?

Following the investigation of a complaint by the Ombudsman where considered appropriate the following outcomes may be achieved

- an apology and/or an explanation
- changes to procedure
- changes to policy
- staff guidance/training
- feedback about any changes made

How do I contact the Ombudsmans Office?

The Scottish Public Service Ombudsman
Freepost EH641
Edinburgh
EH3 OBR
Telephone 0870 011 5378

E-mail enquiries@scottishombudsman.org.uk

Website www.scottishombudsman.org.uk
This website also includes a complaints form.

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

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