

Making a complaint to the NHS in England

If you are not happy with the treatment that you or a loved one has received from the NHS you are legally entitled to an investigation and full response by the NHS body that provided the treatment. This is known as the NHS complaints procedure.

This self-help guide contains all the information you should need to make a complaint. If you have any further questions, please visit our website where you will find more advice and a range of specialised self-help guides, or call our helpline.

Contents

Your right to complain	2
Informal complaint	3
The formal NHS complaints procedure: local resolution	4
How to make a complaint	5
Attending meetings	6
The response to your complaint	7
Independent review by the Parliamentary and Health Service Ombudsman (PHSO)	8
Judicial review	9
Compensation/legal action	10
Sources of help	10

This leaflet is kindly sponsored by:



Tees is a top-tier Legal 500 medical negligence firm.

Call us on 0800 013 1165 for a free, confidential, no obligation chat with a specialist medical negligence solicitor or email hello@teeslaw.com.

Visit: www.teeslaw.com to see how we've helped other people.

If you need legal advice about making a clinical negligence claim, you can find a wide selection of solicitors accredited for AvMA's specialist clinical negligence panel at www.avma.org.uk/find-a-solicitor or call our helpline on 0845 123 2352 (Mon-Fri 10am-3:30pm)



The **charity** for **patient safety** and **justice**

AvMA is the charity for patient safety and justice. We provide free specialist advice and support to people when things go wrong in healthcare and campaign to improve patient safety and justice.

For advice and information visit **www.avma.org.uk**

Or call our helpline
(10am-3.30pm Monday-Friday)
0845 123 2352



Freedman House,
Christopher Wren Yard,
117 High Street,
Croydon CR0 1QG



www.facebook.com/AvMAuk



@AvMAuk



bit.ly/AvMAYouTube

Registered charity in England & Wales
(299123) and Scotland (SCO39683)

Your right to complain

If something goes wrong with medical treatment under the NHS, your right to complain is protected under the NHS Constitution.

The NHS constitution promises:

- You have the right to have any complaint you make about the NHS properly investigated
- You have the right to receive an appropriate explanation
- You have the right to compensation where you have been harmed by negligent treatment
- The NHS will ensure that lessons are learned to avoid similar incidents in the future

You are also protected by the duty of candour, brought in following a campaign by AvMA. Under this, everyone working in the NHS has a legal duty to be open and honest with you when something goes wrong that appears to have caused or could lead to significant harm in the future.

It is often possible to resolve your complaint by talking informally with staff. However, if you need to take matters further there is a clear procedure to follow which ensures that your complaint can be fully and fairly investigated and, if necessary, independently reviewed.

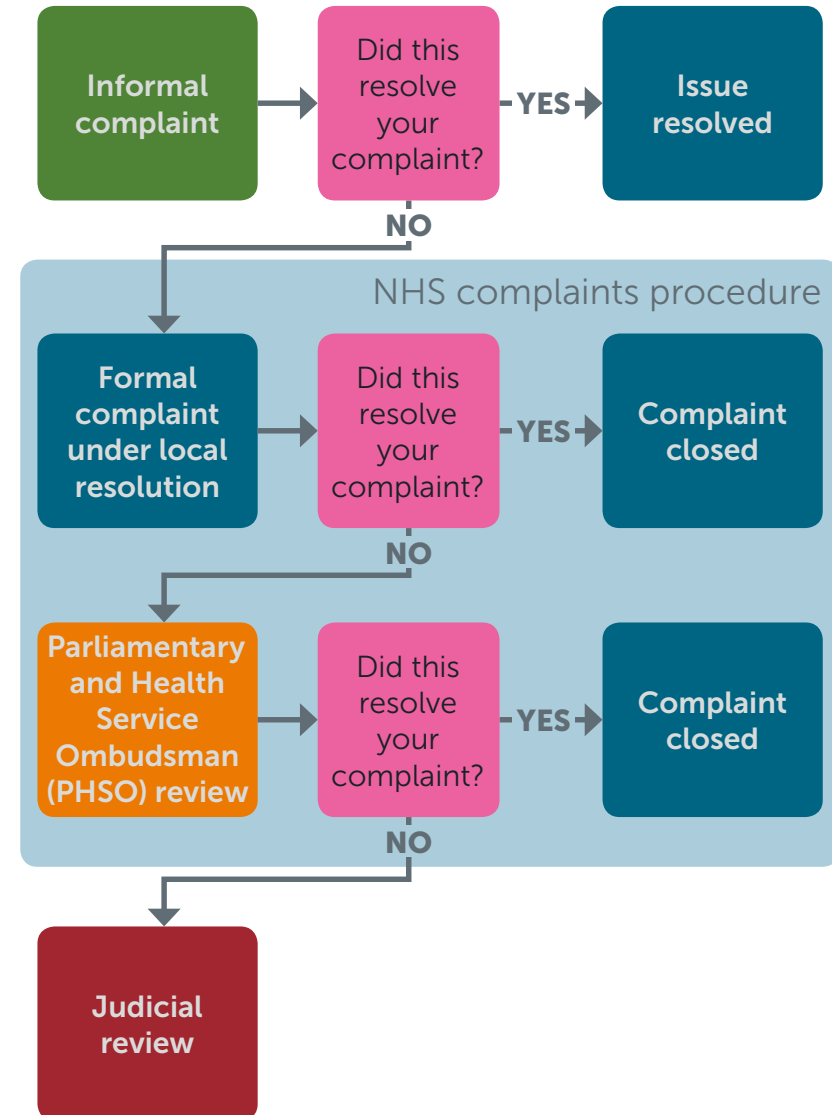
The table (right) sets out possible paths your complaint can take.

Further information

View the NHS Constitution at www.gov.uk/government/publications/the-nhs-constitution-for-england
Please see our leaflet on the duty of candour at www.avma.org.uk/guides

The route of an NHS complaint

Please note this is a typical example and your complaint may not follow this route exactly



Informal complaint

You are under no obligation to make a complaint informally before you make a formal complaint. However, if you believe something has gone wrong with the healthcare provided to you or a loved one, it is almost always best to discuss your concerns with the medical staff as soon as possible, especially if your main concern is to have something urgently put right.

Talk to the staff concerned or a manager and explain why you are unhappy. If you prefer, you can contact the Patient Advice and Liaison Service (PALS) and ask them to investigate the matter. Contact your local hospital trust for contact details. If your complaint is about a family health service (such as a GP, dentist, optician or pharmacist) you can contact the practice complaints manager.

They may be able to settle your complaint straight away. If you are not satisfied with their response, however, you can submit a formal complaint through the local resolution procedures ([see page 4](#)).

Advocacy services

Advocacy services are independent of the NHS and can help you to make your complaint. Their role includes arguing your case when you need them to and making sure the NHS follows the correct procedures.

The services are funded by local councils. Visit www.gov.uk/find-your-local-council to find yours.

You can find more information about NHS advocacy at www.nhs.uk/conditions/social-care-and-support-guide/pages/advocacy-services.aspx

Patient Advice and Liaison Service (PALS)

PALS will try to help you resolve issues informally before you need to make a complaint. PALS can be particularly helpful if your issue is urgent and you need action immediately.

You will find a PALS in most hospitals and NHS GP, dentist, optician and pharmacy services. Ask at the practice or contact the local clinical commissioning group, or phone NHS111 (dial 111).

Before you make a complaint, think about:

- What is the exact nature of your concern?
- What do you want to achieve?
- What can the NHS do to satisfy this?
- Can you achieve what you want without making a formal complaint?

The formal NHS complaints procedure: local resolution

If you would like your complaint to be dealt with more formally you should use the NHS complaints procedure. The first stage is local resolution, where the NHS is required to investigate and respond to your complaint.

Services covered

- All NHS trusts and bodies including foundation trusts
- NHS family health services provided by GPs, dentists, opticians or pharmacists
- Private healthcare establishments if the treatment was paid for by the NHS

Who can complain

- The person affected by the incident
- A family member
- A parent (for children under 16)
- A friend
- Another body, such as an NHS advocacy service

You will usually need to give your permission for someone to complain on your behalf. For older children the NHS will consider whether the child's permission is required before they investigate.

If you are complaining on behalf of someone who is too ill to complain or is mentally incapacitated, the NHS will decide if you are a suitable representative to make a complaint.

Time limits

You should make your complaint as soon as possible so that recollection of events is fresh. At the latest, your complaint must be made:

- No later than 12 months after the event(s), **or**

- No later than 12 months from when you first became aware of the issues
- NHS organisations may consider complaints outside these time limits and can take into account aspects such as the length of your illness.

Possible outcomes

Under the NHS complaints procedure you can get:

- **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 complaints procedure will not:

- **Offer financial compensation**
In some circumstances the NHS may agree to a small *ex gratia* payment (a payment made without recognising any liability or legal obligation)
- **Address issues of staff discipline, for instance sacking someone or having them struck off**
Although sometimes the information obtained through complaints investigations can lead to disciplinary action
- **Investigate private treatment unless financed by the NHS**

Further information

Please see our self-help guides:

- *Health professionals fitness to practise*
- *Complaining about private healthcare*

www.avma.org.uk/guides

How to make a complaint

A complaint can be made verbally, in writing or electronically. If you make a verbal complaint, the healthcare provider must make a written record of the complaint and provide you with a written copy.

You can complain directly to the provider (hospital, GP, etc.) or to the NHS body that commissions the relevant service:

- **NHS England** commissions most primary care services like GPs and dentists. It suggests complaining directly to the provider in the first instance but you may ask NHS England to look into the matter for you.
- **Clinical commissioning groups** oversee the commissioning of hospital services and some community services. Again most complaints should be raised directly with the provider, but you can ask the clinical commissioning group to investigate.

If your complaint is about the use of powers or how duties are carried out under the Mental Health Act, you can complain directly to the Care Quality Commission (CQC).

Powers and duties carried out under the Mental Health Act cover a wide range of services, including receiving care while detained in hospital or while on a guardianship or community treatment order.

Complaints can be made by anyone – patients, staff or any member of the public. If you ask the CQC to investigate a complaint, they will usually ask you to complain to the service provider first. If you need them to, the CQC can help you make that complaint.

Further information

Please see our self-help guide *Sample letter of complaint* at www.avma.org.uk/guides

NHS England

PO Box 16738, Redditch B97 9PT

Email: england.contactus@nhs.net (addressed 'For the attention of the complaints manager')

Tel: 0300 311 22 33 (Mon-Fri 8am to 6pm)

Clinical Commissioning Groups

Find your nearest clinical commissioning group at www.nhs.uk/service-search

Care Quality Commission

CQC Mental Health Act, Citygate, Gallowgate, Newcastle upon Tyne NE1 4PA

Tel: 03000 616161

What to include in the complaint

- **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 that the hospital could help with, such as obtaining a second medical opinion.
- **Whether you want an independent clinical review**
You have a right to ask for an independent clinical review of the complaint. This will be carried out by an independent consultant in the relevant field. The hospital does not have to provide this in all cases.
- **Whether you require a copy of any investigation**
If there has been a serious incident investigation or other internal investigation you should be able to have a copy of the report. If you have not received this, you can request it. The fact that such an investigation and report is available, however, is not a reason for the service provider failing to investigate or respond to your complaint.

What happens next?

You must receive an acknowledgement of your complaint within three working days, which should:

- Explain how your complaint is going to be investigated
- Offer you the chance to discuss your complaint
- Confirm how long the investigation is likely to take and when you are likely to receive the outcome

If the investigation is likely to be delayed you should be notified in writing and given the reason for the delay.

At the end of the investigation you should receive a formal written response.

Helpful hints

- We recommend making your complaint in writing
- Take the name of the staff member with whom you lodged the complaint, the date and what you were told they would be doing to deal with it
- 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 outcomes

How long should it take?

Whilst there is no formal time limit, the whole process should be discussed and agreed with you. The length of the investigation will depend on how complicated it is and who needs to be involved.

If you feel the investigation is taking an unreasonable amount of time, you can contact the Parliamentary and Health Service Ombudsman ([see page 8](#)). The Ombudsman looks into complaints where you feel that the NHS has not acted fairly or put things right.

We suggest that you inform the Ombudsman if you have not received a response within six months. However, they may do no more than recommend that the NHS body responds to you as soon as possible.

Attending meetings

Sometimes as part of the investigation you may be invited to meetings. These can be very helpful, particularly where there are complex medical issues. However you should be well briefed and prepared for such meetings. You may wish to request a written response to your complaint before the meeting to help you prepare for the discussion. You do not have to attend meetings if you do not want to: the organisation is obliged to respond in writing.

Points to consider before a meeting

- **What form will the meeting take?**

Meetings can be useful to:

- ensure the organisation understands your complaint, how they should investigate and respond
- after the investigation has been carried out, to explain the process and findings, that the relevant issues have been dealt with and explain what actions will be taken as a result

- **Who will attend?**

Think about whether you would like the staff members involved in the incident to attend, or if you would prefer not to see them.

- **Where will the meeting be held and how long will it take?**

This is important if you are still recovering from an illness as you may not feel able to attend the whole meeting. Tell the complaints manager in advance if you have any difficulties with this.

- **Do you need any adjustments?**

If you have mobility, hearing or sight difficulties you should let the complaints manager know in advance so they can make any necessary arrangements.

- **What issues do you want addressed?**

It is a good idea to give the complaints manager a short list of your questions or concerns before the meeting. Keep a copy to take with you.

- **Do you need any support?**

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

After a meeting

Do not agree with anything at the meeting that you are not sure about. It is also a good idea to ask for a full written record of the meeting.

If the NHS organisation thinks that your complaint has been fully investigated, they should send you a full written response concluding the local resolution stage of the complaints procedure. They should also tell you what to do next if you are not satisfied.

The response to your complaint

The NHS should send you a full written response to your complaint. Points to consider include:

- **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 example, did they interview the staff involved in the incident?
- **Are there any other matters you are still concerned about?**

The formal response may offer a further meeting to deal with any outstanding issues. You can also continue trying to resolve the complaint locally in writing. This can help clarify issues without the formality and delay of an independent review. However you do not have to accept this option: it is your right to request an independent review at this stage. If you agree to a meeting, the same principles apply as with earlier meetings – you will need to clarify what you remain dissatisfied with and why, usually in writing.

Following any further meetings or correspondence, you should receive a further formal written response. This should try to answer all of your concerns and 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. This can be very helpful in resolving any dispute about the medical issues relating to your complaint.

You still have the right to ask the Ombudsman to investigate.

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

If you are not satisfied with the final response to your complaint, you have the right to request an independent review of your complaint by the Parliamentary and Health Service Ombudsman. However, an independent review is unlikely to be granted if the Ombudsman considers that more should be done to resolve the complaint at local resolution stage.

Independent review by the Parliamentary and Health Service Ombudsman (PHSO)

If you have tried local resolution and are not happy with the result, or if the investigation has taken over six months, you can ask for an independent review by the Ombudsman.

You should try to request a review within 12 months of the incident occurring or when you first became aware that something had gone wrong. If this isn't possible, you can ask the Ombudsman to consider your request, particularly if you have a good reason for the delay such as trying to obtain other advice.

When you contact the Ombudsman you should include:

- A summary of what happened
- Details of the main issues, action taken so far and why you are not satisfied
- Why you feel that further action under local resolution would not resolve things
- Why you think an independent review would be helpful

Once your case has been received by the Ombudsman they will contact you within five days.

You can use the Ombudsman's own forms to submit your complaint if you wish.

Parliamentary and Health Service Ombudsman

Millbank Tower, Millbank, London SW1P 4Q

Helpline: 0345 015 4033 (*Choose option 3*)

Email: feedbackaboutus@ombudsman.org.uk

www.ombudsman.org.uk

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.

Around 80% of cases are dealt with within 40 working days. However some cases will take longer depending upon the circumstances and complexity of the complaint.

Does the Ombudsman accept all cases?

The Ombudsman does not accept all cases for review. They are more likely to consider cases where there was:

- A potentially avoidable death where serious service failures may have affected survival
- Wider public interest issues raised by the complaint
- Serious service failure

The Ombudsman is more likely to review your case if you can show that a mistake or poor service which has had a negative effect on you has not yet been put right; for example, if the NHS has not taken any action to prevent the same problem happening again.

If the Ombudsman does not accept the case for review, you can make a complaint or ask for further information to be considered.

Your case may be turned down if you are taking or considering legal action for compensation and the Ombudsman feels the legal action could provide the answers you are after. However, you do not have to tell the Ombudsman whether you are considering legal action.

Even if you are pursuing legal action this should not delay or prevent the investigation if you are looking for something other than compensation from the Ombudsman.

You should emphasise any issues which would not be resolved by legal means. This could include ensuring that similar incidents do not happen again, or improving policies and procedures.

What can the Ombudsman do?

If the Ombudsman finds your complaint to be justified, it 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 can recommend compensation for inconvenience, distress and expenses incurred. However, this is not designed to replace the legal process for claiming compensation for clinical negligence. If you are seeking a large amount of compensation it may be necessary to take legal action.

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

If you have a problem with how the Ombudsman is handling your complaint you should first raise your concerns with the person handling the investigation or by calling their helpline.

If you are unhappy about the Ombudsman's decision you can ask for a review by a special team who consider complaints about the Ombudsman. You will need to provide reasons for this, such as:

- **Incorrect information**

The Ombudsman's decision was based on inaccurate facts and the correct facts could change their decision

- **New information**

You have new and relevant information that was not previously available and which might change their decision

- **Overlooked or misunderstood information**

The Ombudsman overlooked or misunderstood parts of your complaint or did not take account of relevant information which, if properly considered, could change their decision.

You should contact the Ombudsman with your complaint within three months of when you were sent their decision on your original complaint.

Once the Ombudsman has confirmed its decision, it is the end of the NHS complaints procedure. If you still strongly disagree with its decision the only way to challenge it is via judicial review ([see page 9](#)).

Further information

Please see our self-help guides *Legal action/claiming compensation* at www.avma.org.uk/guides

Or please contact AvMA if you need support dealing with the Ombudsman:

www.avma.org.uk/help-advice or call our helpline on **0845 123 2352** (Mon to Fri 10am – 3.30pm)

Judicial review

Although the NHS complaints procedure finishes with a final decision by the Ombudsman, you may be able to challenge the Ombudsman's decision by seeking a judicial review. You will need to take legal advice to see if you are eligible.

Judicial review is a legal process by which the courts assess whether a public body has reached or failed to reach a decision fairly. The grounds for this can include:

- There has been an unfair or biased process, such as failure to review evidence presented by one side or to give a fair hearing on the basis of the written information
- The decision is irrational

The most important point about judicial review is that it must be sought very quickly after the decision has been made. You should seek legal advice as quickly as possible if you are considering this route.

The latest that an application can be made is three months but this should not be taken as meaning you have three months to seek advice as you may be too late by that stage.

Judicial review proceedings can be very expensive if you lose your case.

Get in touch

Please contact AvMA by completing a new client form at www.avma.org.uk/new-client-form if you need support with a judicial review

Compensation/legal action

The complaints procedure is not specifically designed to award compensation. However, NHS bodies do have the discretion to make *ex gratia* payments (a payment made without recognising any liability or legal obligation).

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.

You should always seek legal advice before accepting any offer of compensation as you may not be able to seek additional compensation at a later stage.

There is nothing to stop you taking legal action and having a complaint investigated at the same time. Legal action should not delay or prevent a complaint investigation.

If an NHS body says that they cannot investigate a complaint because you are seeking legal advice you should direct them to the clarification note published by the Department of Health:

www.england.nhs.uk/wp-content/uploads/2014/03/complaint-clarification-note.pdf

Please let AvMA know if this happens.

Further information

Please see our self-help guides:

Legal action/claiming compensation

www.avma.org.uk/guides

Find a solicitor

To find accredited expert clinical negligence solicitors in your local area who can offer advice, visit:

www.avma.org.uk/find-a-solicitor

Sources of help

Independent help and advice

NHS Advocacy will be able to put you in touch with a local contact to provide assistance on all levels of the NHS complaints procedure. These services are financed by local authorities.

Contact details

You can find more information about NHS advocacy at www.nhs.uk/conditions/social-care-and-support-guide/pages/advocacy-services.aspx

Clinical commissioning group patient liaison teams

Availability varies from region to region as do the services they can offer. This may include general advice and support on complaints concerning NHS services. You should contact the relevant clinical commissioning group.

Contact details

Find your nearest clinical commissioning group at www.nhs.uk/service-search

Healthwatch

This is the consumer 'champion' for health and social care. The services and support they provide will vary regionally.

Some will just be able to give general advice about NHS and social care complaints. In other areas they may be able to act as an advocacy service in formal NHS complaints.

Contact details

Tel: 03000 683 000

Fax: 01132 204702

enquiries@healthwatch.co.uk

www.healthwatch.co.uk

Patient Advice and Liaison Service (PALS)

PALS can give general information on NHS complaints and may be able to help resolve less serious complaints informally.

This is particularly beneficial, for example, if you or a family member are still in hospital and have concerns about treatment or discharge arrangements.

Contact details

Contact your local hospital trust for more information on PALS

Care Quality Commission (CQC)

In general the CQC does not have the legal powers to investigate complaints about GP or hospital services but they do invite feedback from the public and they can use that information when looking at individual services for investigative or regulatory purposes.

This may then lead to use of the CQC's legal powers to make NHS bodies improve their services.

It is a statutory duty on providers registered with the CQC to:

- Have a complaints system in place
- Bring this to the attention of service users
- Provide complainants with support where necessary
- Ensure that the complaint is fully investigated
- Satisfy the service user, so far as reasonably practicable

If you consider that the NHS body is in breach of these duties, you can notify the CQC.

Contact details

Care Quality Commission (CQC)
Citygate, Gallowgate, Newcastle upon Tyne NE1 4PA

Tel: 03000 616161

www.cqc.org.uk

AvMA's free help and advice

We provide free independent advice and support to people affected by medical accidents through our specialist helpline, written casework and inquest support services. We can also refer you to accredited clinical negligence solicitors if appropriate.

We have a wide range of self-help guides available on our website which can guide you through making a complaint to the NHS or a private healthcare provider; calling for disciplinary action against a healthcare worker or taking legal action for compensation.

You can also find out more about our free casework and inquest support services.

Visit www.avma.org.uk/help-advice for more information.

Be part of the movement for better patient safety and justice

Become a
Friend of AvMA
today



You can help make healthcare safer and fairer for all

AvMA wants to build on the support we enjoy from people all round the country who share our passion for making healthcare safer and fairer for those who do suffer harm.

By signing up to be a Friend of AvMA you will belong to a growing movement for change. Join injured patients and their families, healthcare professionals, lawyers and many more who share our goals.

Becoming a Friend of AvMA costs from as little as £5 a month.

£5/month could provide vital advice to patients and families via our helpline

£10/month could help train a volunteer helpline advisor

£50/month could help support a family through an inquest hearing

Benefits of membership

- Regular newsletter keeping you up-to-date with our work
- Invitations to special events
- Share your thoughts on our work and policy issues

Your help could make a real difference to patient safety in the UK


Please sign up today at www.avma.org.uk/friends

Action against Medical Accidents (AvMA)


AvMA is the charity for patient safety and justice. We provide free specialist advice and support to people when things go wrong in healthcare and campaign to improve patient safety and justice.

For advice and information visit
www.avma.org.uk

Or call our helpline
(10am-3.30pm Monday-Friday)
0845 123 2352

 Freedman House,
Christopher Wren Yard,
117 High Street,
Croydon CR0 1QG

 www.facebook.com/AvMAuk

 [@AvMAuk](https://twitter.com/AvMAuk)

 bit.ly/AvMAYouTube

Registered charity in England & Wales
(299123) and Scotland (SCO39683)