

Complaining about private healthcare

This self-help guide contains all the information you should need to complain about private healthcare if you are not happy with the treatment that you or a loved one has received.

If you have any further questions, please visit our website www.avma.org.uk/help-advice where you will find more advice and a range of specialised self-help guides, or call our helpline.

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patient safety and justice

AvMA is the charity for patient safety and justice. We provide 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
(03 calls cost no more than calls to
geographic numbers (01 or 02) and
must be included in inclusive minutes
or there can be a cost per minute)*

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Complaining about private healthcare

If you are unhappy about treatment you have received in a private hospital or clinic, it is your right to make a complaint about this and have the matter investigated and to receive a full and prompt response to your complaint. There are a number of options open to you:

Discuss your concerns with your consultant

If you are concerned with the outcome of your treatment, then you should talk to your treating consultant in order to obtain an explanation and advice.

If your consultant is unhelpful or unresponsive, and you believe you are in need of further treatment, you should talk to your GP about your concerns and possible treatment options. This may include obtaining a referral for a second opinion.

Make a formal complaint to the hospital or clinic

Under the Health and Social Care (Community Health and Standards) Act (2003), hospitals and clinics must operate a complaints procedure. This should be similar to that used by the NHS.

ISCAS (The Independent Sector Complaints Adjudication Service) (www.iscas.org.uk) has a code of practice for handling patients' complaints; however this will only apply to private healthcare providers who are ISCAS Subscribers or to patients treated by an Independent Doctors Federation Member (www.idf.uk.net). IDF is itself a subscriber of ISCAS.

Complain to the Care Quality Commission

Under the Health and Social Care (Community Health and Standards) Act (2003), the Care Quality Commission (CQC) is now responsible for regulating and inspecting independent healthcare in England.

If for any reason you are unable to get the private health provider to respond to a complaint, or if you are unhappy with their response, you can make a complaint to the CQC (or the equivalent body in Scotland Northern Ireland and Wales).

Complain to the professional regulating body

If the issue is about an individual health professional's fitness to practise, make a complaint to the relevant professional regulating body such as the General Medical Council (for doctors) or Nursing and Midwifery Council.

Further information: Please see our self-help guide Health professionals fitness to practise at www.avma.org.uk/wp-content/uploads/Fitness-to-practise.pdf.

Is there a time limit for making a complaint?

Complaints usually should be made as soon as possible within six months of the incident complained of or within six months of becoming aware that you had cause to complain. Providers may consider complaints outside this period but you would have to provide then with a good reason such as ill health.

You can ask someone to complain on your behalf but you will usually have to give written permission. If you are complaining on behalf of a family member, you will usually be asked to present written consent from the person you are complaining on behalf of.

The complaints procedure should follow the same pattern as with NHS complaints. First of all attempt local resolution by speaking or writing to the organisation concerned. If there is a head office for the company running the hospital or clinic; it is a good idea to copy your complaint to the chief executive there.

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.

If the organisation whom you wish to complain about is a subscriber of the The Independent Sector Complaints Adjudication Service or the doctor you are complaining about is a member of the Independent Doctors Federation, in accordance with their code of practice they are required to investigate your complaint and provide you with a full and detailed response.

Under this code the healthcare provider can:

- Acknowledge things have gone wrong
- Offer an apology

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- Take action to put the matter right
- Share information on the investigation and learning from the incident including changes made as a result
- Offer an ex gratia payment or good will offer of money

You can make a complaint at the same time as seeking legal advice or pursuing a legal claim, but the provider may not respond on issues which are central to the clinical negligence claim such as breach of duty of care and causation but should deal with any other issues in your complaint. The fact that you are intending to take legal action should not be used as a reason not to investigate your complaint.

ISCAS Code of Practice

The ISCAS Code of Practice has three progressive stages:

Stage 1 - local resolution

Stage 2 - internal appeal

Stage 3 - independent external adjudication

At the local resolution stage (stage 1) it is the responsibility of the member hospital concerned to look into and respond to the complaint. The aim is to try and sort out any problems as quickly and informally as possible.

In some cases a discussion with an appropriate member of staff may be all that is needed to put things right. If the complaint is about a clinician or independent practitioner, it should be addressed to the clinician or practitioner, and to the Registered Manager.

You can make a verbal complaint, but it is advisable to make your complaint in writing. You should receive a written acknowledgement within 2 working days and a full response within 20 days. If this is not possible, the registered manager should write to you and explain the reasons why it is not possible to reply within these time limits and should update you every 20 days until a full response can be made.

Although usually you should have exhausted each tier before moving onto the next, if you feel that the registered manager is taking an unreasonable amount of time to respond, then you can request a complaints review.

Meetings

If you are given the opportunity of a meeting, it is advisable to discuss how you would like it to be conducted before agreeing. Meetings 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 the written response in advance of the meeting to assist you in preparing for the discussion.

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

It is open to you to talk over the meeting with the registered 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 registered 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 registered 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.
- If you have mobility, hearing or sight problems which could cause difficulties in a meeting you should let the Registered Manager know in advance so that these can be accommodated.
- Do not agree with anything at the meeting that you have reservations about.

Stages 2 and 3

If you are not satisfied with the outcome of stage 1 you can request an internal review (stage 2), which should be made in writing within six months of your final written response and addressed to the investigating director.

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The complaint will be considered by the investigating director and the correspondence and handling of the local resolution stage will be reviewed. The investigating director will either uphold the original decision or offer an alternative course of action.

If you are dissatisfied with the outcome, you can write to the independent external adjudication secretariat for an independent external adjudication (stage 3) within six months of receiving the investigating director's final response. This should be submitted in writing with all the supporting documentation:

You should note that:

- You must agree that that this would be the final resolution of all matters related to the complaint
- Any payment offered will be in full and final settlement of the complaint. This would mean that you could not subsequently seek further compensation.

You would be advised to seek your own advice at that stage from AvMA or a specialist clinical negligence solicitor.

Contact details

ISCAS Secretariat to request Stage Three at:
Independent Sector Complaints Adjudication Service
100 St Paul's Churchyard
London, EC4M 8BU

info@iscas.org.uk

Care Quality Commission

You can request that the adjudicator's decision be sent to the Care Quality Commission or the providers regulator in Scotland, Northern Ireland or Wales. You can also forward copies of the documentation on your complaint to the CQC.

They can only investigate complaints about providers who need to register with them. In general the CQC does not have the legal powers to investigate complaints about private medical care 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 private healthcare providers improve their services.

It is a statutory duty on providers registered with the CQC to have a complaints system in place which is brought to the attention of service users, which provides complainants with support where necessary and which should ensure that the complaint is fully investigated to satisfy the service user as far as reasonably practicable.

Contact details

England: Care Quality Commission

CQC National Customer Service Centre
Citygate, Gallowgate, Newcastle upon Tyne NE1 4PA
Telephone: **03000 616161**

Northern Ireland: The Regulation and Quality Improvement Authority

9th Floor Riverside Tower, 5 Lanyon Place, Belfast BT1 3BT
Telephone: **028 9051 7500**
Email: info@rqia.org.uk

Scotland: Healthcare Improvement Scotland

Gyle Square, 1 South Gyle Crescent, Edinburgh EH12 9EB
Telephone: **0131 623 4300**
Email: comments.his@nhs.net

Wales: Healthcare Inspectorate Wales

Welsh Government, Rhydycar Business Park, Merthyr Tydfil CF48 1UZ
Telephone: **0300 062 8163**
Email: hiw@wales.gsi.gov.uk

Fertility clinics

If your complaints concerns a clinic licensed by the Human Fertilisation and Embryology Authority (HFEA), once you have completed the initial stages of the clinics complaints procedures you can complain to HFEA. Complaints should be normally be made within six months of you becoming aware of the problem.

HFEA has no specific statutory duty to investigate patient complaints but such complaints may impact HFEA's duty to provide patients with advice and information and under the Human Fertilisation and Embryology Act 1990 they have a duty to investigate serious adverse incidents and serious adverse reactions. A patient's complaint may therefore give rise to such an investigation.

Complaining about private healthcare

HFEA cannot intervene in cases involving contractual issues or in relation to funding or treatment costs and has only limited remit over issues of refusal of treatment. They cannot order compensation or apology but will:

- Acknowledge the complaint within 5 days
- Inform you of the outcome of their investigation and the actions identified to secure improvement and if any learning points have been derived from the complaint.

Contact details

Complaints Inspector

Human Fertilisation and Embryology Authority
Finsbury Tower 103-105 Bunhill Row
London, EC1Y 8HF

Further information on licensing and other help HFEA can give can be found at their website: www.hfea.gov.uk/fertility.html

Private dental treatment

Usually you should try and resolve the complaint at the local level by contacting the private dental provider. If however this does not resolve your complaint, then you should contact the Dental Complaints Service. They can:

- Help you to obtain an explanation and apology
- Recommend a full or partial reimbursement of fees paid for the treatment that has gone wrong
- Arrange for the dental practitioner to provide remedial treatment if both parties agree.
- Arrange a contribution to the costs of remedial treatment by another dental practitioner up to the costs of the original treatment.

They cannot, however, recommend compensation for pain and suffering, for which you would need to see a specialist dental negligence solicitors and AvMA can recommend suitable specialists.

Complaints have to be made within 12 months of the treatment or within 12 months of becoming aware that you had something to complain about such as when the treatment fails.

Contact details

Dental Complaints Service

Stephenson House, 2 Cherry Orchard Road
Croydon CR0 6BA

Telephone: **020 8253 0800** (Mon-Fri 9am-5pm)

Email: info@dentalcomplaints.org.uk

Private health insurers

If your treatment was paid for by private health insurance, it may be worth contacting the insurer, who should have an interest in the standard of care being provided.

Withholding payment

If you believe that you have a justified complaint and are considering withholding payment for the treatment in question, you should be aware that it is likely that the hospital or practitioner will sue to recover fees and can employ debt collection agencies to pursue this on their behalf. Your credit rating may also be adversely affected and it may be more difficult to get loans or a mortgage.

NB: Some people do have legal expenses cover in household, motor or personal insurance policies that will cover your costs in the event of a compensation claim. Even if you are considering a complaint, you should check all your insurance policies and if there is legal expenses cover, check the policy terms in relation to time limits for making a claim to the insurers. If there is a time limit, you should submit details to the insurers within this period to avoid a refusal of cover at a later stage. If the period for making a claim is not clear, then you should speak to the insurance provider.

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patient safety and justice

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This vision is underpinned by four objectives, we believe, will transform trust in the NHS and healthcare generally and significantly cut the cost – financial and human – which is incurred annually in settling legal claims as well as dealing with the human costs associated with traumatic medical injuries and death. Our four key objectives are:

- To expand the range of communities we serve and so enabling more people experiencing avoidable harm to access services from us that meet their needs
- To empower more people to secure the outcomes they need following an incident of medical harm, whilst providing caring and compassionate support
- To eliminate compounded harm following avoidable medical harm
- To have the necessary diversity of sustainable resources and capacities to deliver

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