

Starting the NHS complaints process

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 a range of specialised self-help guides, or call our helpline.

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The **charity** for
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)*

0345 123 2352



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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

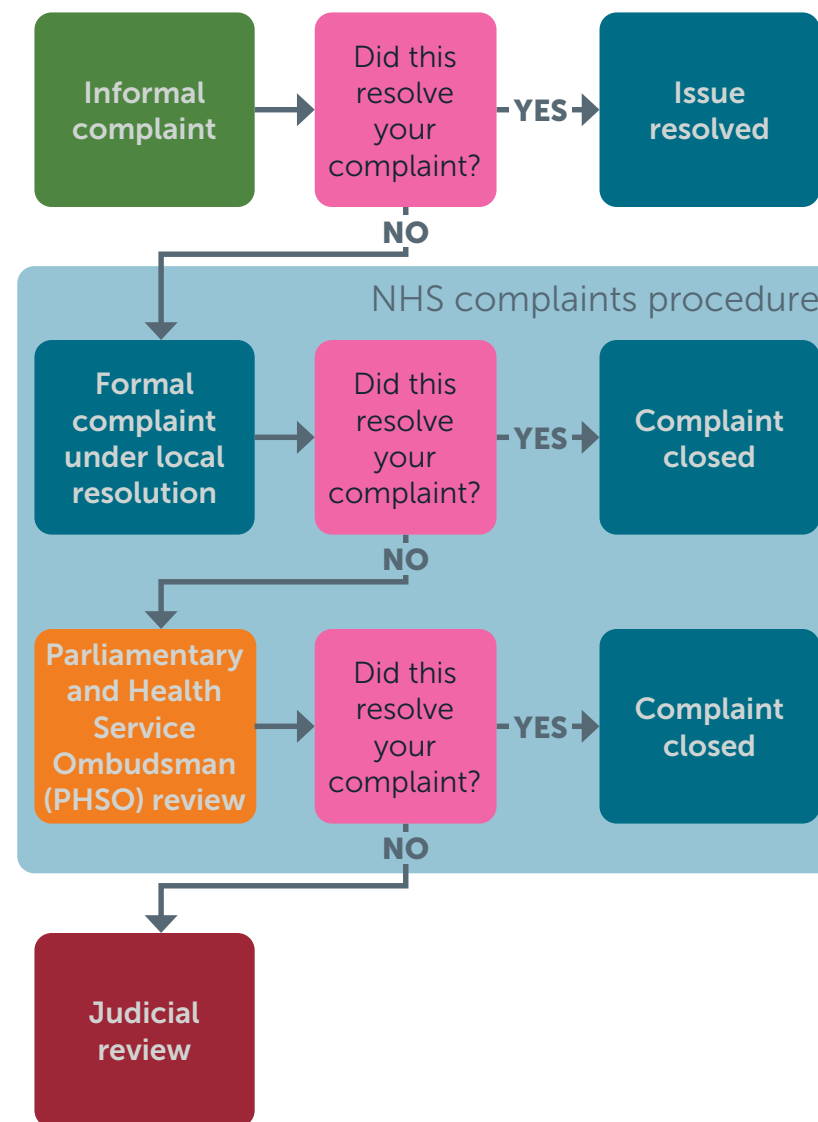
View the NHS Constitution at

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 one possible 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

Sample letter of complaint

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.).

You can complain to the commissioning body for the services.

This will usually be the Integrated Care Board.

Complaining to the commissioner may be the right option if you are uncomfortable complaining directly to your healthcare provider or do not think this is appropriate such as if there has been a breakdown of the relationship with the provider. Please note: if you have already complained to your healthcare provider, the commissioner will not be able to re-investigate the same concerns.

If your complaint is about healthcare in prison, or for services such as vaccination services then you will need to contact NHS England.

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

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)

Local Integrated Care Board

Find your local Integrated Care Board at

<https://www.england.nhs.uk/integratedcare/integrated-care-in-your-area/>

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

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- 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. 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. However, you must go through the NHS Complaint (local resolution) stage first, the Ombudsman will not consider your complaint until you do.

If you are unhappy with the Ombudsman's decision you may be able to have this judicially reviewed. For more information please see our leaflet:

www.avma.org.uk/wp-content/uploads/Judicial-review.pdf.

For more information on the Parliamentary Health Service Ombudsman (PHSO) please follow this link:

www.avma.org.uk/wp-content/uploads/PHSO-review.pdf.

Be part of the movement for better
patient safety and justice

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AvMA's work
today



You can help make healthcare safer and fairer for all

Our vision is a simple: **People who suffer avoidable medical harm get the support and the outcomes they need.**

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

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avma
action *against* medical accidents

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