

NHS Complaints Self Help Kit



You can use the complaints process to complain about any NHS funded treatment including care provided by NHS hospitals, GPs, pharmacies, ambulance services, dentists, district nurses, opticians, and mental health services. If the NHS paid for treatment at a private hospital or pays all or part of someone's care home fees this is also covered by the NHS complaints process.

You can complain about your own care and treatment or someone else's but you may need to get their consent before the NHS will investigate.

If you have done everything you can to resolve your complaint with the local service and you are not happy with their final decision you can contact the Parliamentary & Health Service Ombudsman (PHSO). This is the final stage of the NHS Complaints Process.

If you want to make your own complaint but are not sure where to start you can use the self-help materials below.

Who can make a complaint?

The procedure allows a complaint to be made by both Adults & Children about their experience as an NHS patient.

Carers, parents, and staff would ordinarily be viewed as appropriate people to make a complaint on behalf of a patient. It is also possible to complain for someone else if:

- A complaint may be made on behalf of a child (under 18) if they are unable to make the complaint themselves.
- On behalf of a friend or relative (you will need to get their consent in writing), for example if they are unable to manage the complaints system.
- A patient who lacks capacity and this can be demonstrated (the NHS will need to confirm this)
- On behalf of a relative who has recently died

How long do I have to make my complaint?

Your complaint should be completed within 12 months of the incident or first indication you needed to complain. There are occasions where the NHS will use their discretion about this, but usually you will need a very good reason, such as you have been too ill and therefore unable to complain.

The NHS complaints procedure

There are two stages to the NHS Complaints Procedure: local resolution and the Parliamentary and Health Services Ombudsman (PHSO).

Stage 1: Local Resolution is the opportunity for the health service in question to respond to the issues of your complaint. Complaints Managers sometimes prefer you to raise your complaint in a letter; however, you can also call or e-mail them. A verbal complaint is sufficient. The Complaints Manager should acknowledge your complaint within three working days. They will work with you to agree a plan for dealing with your complaint which will include what you would like to happen because of your complaint, who will be involved and the expected timescales.

Following investigation, a response to your complaint will usually be sent to you in writing. On receipt of this, if you remain unhappy you can go back to the Complaints Manager to discuss your outstanding concerns. At this point, a further response may be provided in writing, or they may offer a meeting with the appropriate people where your remaining issues can be discussed and responded to face to face. If you reach a point however where you feel that your complaint cannot be resolved locally, and you remain dissatisfied with the outcome, you can escalate your complaint to Stage 2 and contact the PHSO.

Stage 2: The PHSO will assess whether it will investigate your complaint. If it does investigate, it will write a thorough report. The Ombudsman aims to complete most investigations within a year. If the Ombudsman does not accept to investigate your complaint, it may ask the NHS provider to take further action to meet one or more of your stated outcomes

Where do my rights come from?

The NHS constitution

Everyone who uses the NHS should understand what legal rights they have

“It is there to improve our health and wellbeing, supporting us to keep mentally and physically well, to get better when we are ill and, when we cannot fully recover, to stay as well as we can to the end of our lives. It works at the limits of science – bringing the highest levels of human knowledge and skill to save lives and improve health. It touches our lives at times of basic human need when care and compassion are what matter most.

The NHS is founded on a common set of principles and values that bind together the communities and people it serves – patients and public – and the staff who work for it.

This Constitution establishes the principles and values of the NHS in England. It sets out rights to which patients, public and staff are entitled, and pledges which the NHS is committed to achieve, together with responsibilities, which the public, patients and staff owe to one another to ensure that the NHS operates fairly and effectively.” – ‘Introduction to the NHS constitution’ www.gov.uk

Know Your Rights!

You have the right to have any complaint you make about NHS services acknowledged within three working days and to have it properly investigated.

You have the right to discuss the way the complaint is to be handled, and to know the period within which the investigation is likely to be completed and the response sent.

You have the right to be kept informed of progress and to know the outcome of any investigation into your complaint, including an explanation of the conclusions and confirmation that any action needed in consequence of the complaint has been taken or is proposed to be taken.

You have the right to take your complaint to the independent Parliamentary and Health Service Ombudsman or Local Government Ombudsman, if you are not satisfied with the way your complaint has been dealt with by the NHS.

You have the right to make a claim for judicial review if you think you have been directly affected by an unlawful act or decision of an NHS body or local authority.

You have the right to compensation where you have been harmed by negligent treatment.

NHS pledges

The NHS also pledges to:

- ensure that you are treated with courtesy, and you receive appropriate support throughout the handling of a complaint; and that the fact that you have complained will not adversely affect your future treatment
- ensure that when mistakes happen or if you are harmed while receiving health care you receive an appropriate explanation and apology, delivered with sensitivity and recognition of the trauma you have experienced, and know that lessons will be learned to help avoid a similar incident occurring again.
- ensure that the organisation learns lessons from complaints and claims and uses these to improve NHS services.

Now we know our rights, we are ready to self-advocate!

Obtaining Medical Records Facts Sheet

All NHS staff have a duty of confidentiality towards all patients and their records. Patient records include:

Obtaining Patient Records

- GP and hospital doctor records
- Nursing records, and those made by other NHS staff
- Records of your visits to the practice, clinic or hospital
- Records of visits to you
- Details of treatment, medication, tests and their results, diagnosis, referrals, etc.

Your rights:

Under the Data Protection Act 1998 you have a right to see and receive copies of records unless:

- a) Your doctor believes that to do so would seriously harm you or another person. Note: This refusal can apply to part of your records and there is no obligation to inform you of such a partial refusal. It is worth asking if any part of your records has not been made available and, if so, the reason for this and when this decision can be reviewed.
- b) Providing them would disclose information relating to another person who has not consented to the disclosure.

Applying for your records:

- You must apply to see your records, and some GP Practices and Trusts have a form specially designed for this that you are asked to complete. Most Trusts also have a specially appointed person, responsible for dealing with such requests.
 - Records should be made available within 40 days of applying to see them, or 21 days if they have been added to within the last 40 days.
 - Trusts and GP Practices are allowed to charge you for seeing your records if they have not been added to within the last 40 days. This charge should not be more than £10.
 - Trusts and GP Practices also must explain to you anything in the records that is not easy to read, or which uses technical language that you do not understand.
- If you want copies of the records, Trusts or GP Practices can charge you for the actual cost of postage and photocopying, up to a maximum of £50, including the £10 charge if that is made. It is a good idea to get copies if you need to use something in your records as evidence in your complaint.

- Trusts and GP Practices can refuse to provide copy records if providing them would involve “disproportionate” effort. Or if they felt viewing would be detrimental to your health. Note: Disproportionate effort is not defined, but the Data Protection Commissioner has warned against abusing this clause to block your access to your records.
- If you are applying to obtain someone else’s records, you must have the patient’s authorisation in writing. This includes parents applying to see a child’s records if the child can understand matters. Where a patient is unable to give permission because of incapacity or illness, you may need to seek legal advice and a court authorisation.
- In the case of a deceased patient disclosure is governed by the Access to Health Records Act 1990 and records can only be obtained by a Personal Representative of the deceased (the executor or administrator of their estate) or by someone who may have a claim arising out of the death, unless the deceased specifically requested in the records that they did not want that person to have access to their records after their death.

If you think your records are inaccurate, you can ask for them to be corrected. You can, if the Trust or doctor disagrees with the changes you want to make, ask for a note recording your disagreement to be attached to the records.

Writing your complaint

Now we have figured out what to expect, who to write to and what about, how to write the letter and structure it and get the most out of your complaint

1. Structure your letter into three parts:

- a) Background
- b) Issues of complaint – number or bullet point each issue
- c) Outcomes you are seeking - number or bullet point each issue.

If possible, relate the numbering to the issues of complaint, so that the Complaints Officer can see what you wish to achieve from each complaint you raise.

2. It is important where possible to include dates of any incidents you are complaining about and the names of anyone involved. This means that NHS Services can look back on files and be clear what you are referring to.
3. You can explain the impact of the issue of complaint on your life and to describe how it has made you feel but try to keep the main body of the letter as factual as possible, so that the issues can be investigated. To this end, be careful not to lose your key points in a long letter, use short sentences and try not to repeat yourself.
4. Be firm, clear and direct, but beware of being aggressive.
5. You can always ask someone who outside of your situation to read it over for you, if you feel this may help you improve to keep the letter clear.
6. If you are sending a written complaint keep a copy of your letter/emails for yourself.
7. To make sure your letter is received you may wish to send it by guaranteed or recorded delivery, or you may wish use email.

Letter Template

Your address

Organisations address

Date

Dear (Complaints Manager/Practice Manager)

I am writing to complain about..... (Summarise your complaint issue concisely)

Background

Details about your personal circumstances (or the circumstance of the patient if you are writing the letter on behalf of someone) which are relevant to the complaint.

Complaint Issues

1.

2.

List your complaint issues and include examples with dates and names wherever possible

I am seeking the following outcomes: (what is it you would like to achieve through the complaint, for example an apology or an explanation. It is useful to relate this to the complaint issues).

1.

2.

Yours sincerely

Your Name and signature

Consent form

If you require the support of an advocate this form gives us the authority to contact third parties with your consent and to discuss the matters, you raise with us. What you want shared is your decision and your data is stored safely. We hold your data in strict confidence and only non-identifiable statistics are shared with our commissioners to improve performance, develop the service, and analyse trends.

Client Name	
Date of Birth	
Address	
Postcode	

I have requested support of an advocate to make an NHS complaint. The Advocate is from Cambridge House. My allocated advocate is **Andrea St. Croix**

This document authorises the above-named advocate to support me with the NHS complaint I wish to raise. In accordance with this, I consent to disclosure of information requested.

Client Name	
Client Signature	
Date	

I, the patient give consent for the above-named person being the Cambridge House client to act on my behalf on this matter.

(This part is only to be completed if the client is not the patient. Patient consent is not necessary if the patient is under the guardianship of the client or is unable to act in the complaint).

Patient Name	
Patient Signature	
Date	