

## Raising Concerns or Complaints about the NHS

### Introduction

The National Health Service (NHS) works hard to treat everyone properly and promptly. Most people using the health service are happy with their treatment but sometimes things can go wrong.

If you are unhappy with the service you or others have received from a hospital, doctor, dentist, local surgery or any other NHS service, you can raise your concerns about it.

By raising your concerns it can help put things right quickly and the NHS can learn from your experience. This could include an explanation, an apology and information about how the NHS has used your experience to improve services or care.

### How to use this pack

This pack aims to help you feel confident about raising your concerns yourself.

- Explains the different options for raising your concerns about the NHS
- Offers practical tips and things for you to think about
- Tells you how seAp can help you with independent support.

### How can seAp's Independent Complaints Advocacy help?

seAp's Independent Complaints Advocacy Service can help you raise a concern about NHS care or treatment. seAp's Independent Complaints Advocacy is:

- Free
- Independent
- Confidential

Your seAp advocate will contact you as soon as possible, take time to listen to your concerns and then discuss the support you need to make your complaint. Your advocate will be able to give you information about the different ways you can raise your concerns with the NHS organisation so you feel comfortable with

the process. Your advocate can also help you think about what you would like to achieve from your complaint; people want different outcomes when they complain such as an apology, explanation or an improvement to NHS services.

### seAp's advocates:

- Give you an opportunity to speak confidentially to someone independent of the NHS
- Explore the options available to you at every stage of the complaints procedure
- Help you with writing effective letters to the right people
- Prepare you for meetings and attend with you
- Contact and speak to third parties if you wish us to
- Help you think about whether you are happy with the responses you receive from the NHS organisation. Your advocate will not try to persuade you to take a particular course of action and will always respect your decisions.

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## Raising concerns and complaints about the NHS – First Steps

### Step 1 – What are you unhappy about?

Before you start it is important to be clear what aspect of your NHS care you are unhappy with; this can be any part of the NHS care/ services you have received, but might include:

- Treatment or care
- Attitude of staff
- Poor communication
- Waiting times
- Lack of information
- Failure to diagnose a condition

Below are some 'real-life' examples of recent issues raised:

'An emergency ambulance took over an hour to arrive'

'A patient was given incorrect information about a medical procedure and suffered pain as a result'

'A GP refused to do a home visit'

'An elderly patient frequently had to wait a long time for routine transport home from hospital appointments'

'A patient felt that a nurse had treated him without respect'

Useful tip: write down what you want to complain about as simply and clearly as you can so that you can refer back to it.

### Step 2 – What do you want to achieve?

Think about what you want to achieve; your issues are more likely to be dealt with smoothly if you can be specific and realistic and be aware there are limits on what can be achieved using the NHS Complaints Procedure. Where the outcome you are looking for would be more likely to be achieved through another route our advocate can explain this and give you information about who best to contact instead.

## Financial compensation for clinical negligence

This is usually possible only through legal action

You need to speak to a solicitor who specialises in medical or clinical negligence

There are time limits for making a legal claim and you should contact a solicitor within three years of the incident

## Disciplinary action against any NHS staff member

The NHS Complaints Procedure cannot be used to take disciplinary action against a member of NHS staff

This could however, happen under a separate procedure as a result of an investigation into your complaint

## Private healthcare complaints

If you have paid for private treatment or used medical insurance you cannot use the NHS Complaints Procedure to make a complaint. The private healthcare provider will have its own complaints procedure you can follow

If, however, your treatment was funded by the NHS you can still use the NHS Complaints Procedure

## Care home and nursing home complaints

If the care home or nursing home is paid for by the NHS you can make a complaint using the NHS Complaints Procedure

If the care home or nursing home is paid for privately you cannot make a complaint using the NHS Complaints Procedure. Most care homes and nursing homes will, however, have their own complaints procedure so you can make a complaint using this

## When raising a concern with the NHS you can expect:

- To be treated with respect and courtesy
- To be offered support to help you raise your concerns
- A speedy solution to be offered where possible
- An explanation of what happened
- An apology, if appropriate
- Changes to be made so the same thing will not happen to anyone else
- Better communication between NHS staff and patients

### Step 3 – Who do I raise a concern with?

Once you are clear on what you are unhappy about you need to decide how best to raise your concerns; there are different ways you can do this and it helps to think about what you feel comfortable with.

### Speak to a member of staff directly

Many complaints are caused by misunderstandings or communication that can be put right once the problem is explained. If you feel able to you can speak to a member of staff directly involved in your treatment, or their manager, about what you are unhappy about; this is often the quickest way to put things right and stop them getting worse.

### Speak to the Patient Advice and Liaison Service (PALS)

If you feel uncomfortable contacting the NHS staff directly, or you have tried and it has not resolved your issues, then a service called PALS (Patient Advice and Liaison Service) may be able to help you; officers from PALS are available in all hospitals.

PALS provide information, advice and support to patients, families and their carers and can help get answers to your questions quickly; you can find your

nearest PALS office using the directory on the PALS website.

### The NHS Complaints Procedure may be the best route to follow if:

You have raised your concerns but they have not been resolved fully. What happened raises serious questions about standards of care. You wish to raise complex issues which require investigation. The issues involved concern more than one organisation.

### The NHS Complaints Procedure

The NHS Complaints Procedure focuses on resolving your complaint locally.

#### Stage 1 - Local Resolution

The aim of Local Resolution is to try to sort out your problem directly with the NHS organisation in question; The NHS aims to respond to you efficiently, sensitively and promptly.

Local Resolution is your opportunity to explain what it is you are unhappy about and what you would like to happen, it gives you, and the NHS organisation, time to listen and discuss the incident. Local Resolution is important because it aims to resolve your concerns and, where appropriate, use your experiences to improve local services.

At this stage it is important to raise everything that you are unhappy about as new issues cannot later be introduced as part of the same complaint. It may be helpful to keep a record of any telephone calls you make and letters you write or receive about your complaint.

#### Are there time limits for making a complaint?

You should make your complaint within:

- Twelve months of the incident happening or

- Within twelve months of you realising that you have something to complain about

The NHS can use its discretion to look at issues that are beyond these timescales.

For example if you were too ill to make the complaint straight away the NHS will consider if it is still possible to investigate the complaint effectively and fairly.

## How do I complain?

You can explain what happened to you:

- In person
- On the telephone
- By email
- In a letter

NHS organisations tend to prefer having complaints in writing but, if you would rather telephone or go in person, the Complaints Manager should make a written record of your complaint and give a copy to you.

**Useful tip: if you send a written complaint keep a copy of your letter to refer to later.**

All NHS organisations have complaints procedures and in most cases they will probably be best placed to deal with your complaint however, for complaints about primary care and independent providers such as your GP, dentist, optician, pharmacist, health centre or other independent NHS contractor, you have two options:

1. You can complain directly to the NHS organisation by contacting the person in charge of complaints; in most GP and dental practices, this will be the Practice Manager.

Or

2. If you don't feel comfortable about raising the matter with your GP or Practice Manager, you can complain to either the NHS Commissioning Board or your local Clinical Commissioning Group (CCG). All CCGs will have a Complaints Manager

who can advise you about making a complaint.

If you want to complain about your hospital or ambulance services contact the Complaints Manager or the Chief Executive of the NHS Trust.

**Useful tip: if your complaint concerns more than one NHS organisation, you only need to send a letter to one of the organisations; they will liaise with the other organisation(s) involved and provide a coordinated response.**

## What will happen next?

Sometimes it may be possible to resolve your concerns immediately but if this is not the case they:

- Should acknowledge your complaint either verbally or in writing within three working days.

Must offer to contact you to discuss your complaint and arrange a plan to resolve your concerns with you; this means they will discuss how best to resolve your concerns and what you hope to achieve from raising them. They should also agree a timescale with you for resolving the issues and how they will keep you informed of progress. The suggested timescales can be influenced by things like how many staff they need to speak to, how easy it is for them to access your medical records and if other NHS organisations are involved in your complaint. If there is a problem in keeping to the agreed timescale they should contact you before it expires to agree an amended timescale.

## Resolving your complaint:

The NHS organisation should offer assistance to enable you to understand the complaints procedure or advice on where to obtain such assistance. You may be offered a meeting to discuss your complaint and speak to staff directly about what has happened; you can take

a friend, relative and/or advocate with you to any meetings you may have.

Sometimes the NHS uses Conciliation or Mediation services. A conciliator/ mediator is a neutral and independent person who can arrange a meeting with you and those involved (either separately or together) so you can all express your views and try to resolve your differences.

A conciliator will become involved only if everyone affected agrees; the conciliation process is confidential. Conciliation and Mediation Services differ from Trust to Trust so if this is offered you should ask the Complaints Manager to explain how it operates in their area.

Useful tip: It may be helpful to prepare a list of questions you want to ask at your meeting and bring this with you; try to keep these questions clear and concise. It is also helpful to take any relevant paperwork with you to the meeting.

### After the Investigation

Once the investigation is finished and any meetings have been held the Complaints Manager should send you a letter containing:

- A summary of your complaint
- What the investigation found and any actions to be taken as a result
- What to do if you are still unhappy with the answers given.

Depending on the investigation the letter may contain:

- An apology, if relevant
- What actions will be taken and when, as a result of your complaint
- Who is responsible for making this happen
- What steps have been taken to prevent the same thing happening to other people

The letter should:

- be balanced, factual and impartial
- be clear and easy to understand

- avoid technical terms and, if they are used, it should explain what they mean.

If you haven't received this letter within the timescale agreed in the plan you may want to ring or write to check when you can expect to receive it; if you have agreed, this letter may be sent by email.

The Parliamentary and Health Service Ombudsman (PHSO) has produced a set of six clear principles for good complaints handling and all NHS organisations are expected to follow these principles when dealing with your complaint. You can request details of this guidance from seAp, or access this from our website [www.seap.org.uk](http://www.seap.org.uk).

Alternatively you can find out more by visiting the PHSO website at [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

### What if I am not happy at the end of Local Resolution?

If you are not satisfied with the reply ask yourself exactly what you are still unhappy with so you can decide what to do next, it may help to review:

- The letters
- Any meetings
- Any conciliation or mediation process; whether the plan you agreed was followed
- Whether parts of your complaint have yet to be answered
- Whether you feel evidence you gave was not properly considered
- Whether you have achieved the outcome you wanted
- What more, if anything, could have been done to achieve the outcome. Whether the Complaints Manager has followed the Ombudsman's good complaints handling principles.

### What are my options?

You could write another letter explaining what you think has not been covered.

You could call the person handling your complaint and explain why you are still unhappy. You could request a meeting to discuss your outstanding concerns. You may choose to try a different route to achieve the outcome you want – review the options at Step 2.

Further investigation into your complaint may be carried out; again, the NHS

organisation should discuss this with you and agree a plan for doing this, including timescales.

The NHS organisation you are complaining about may feel that everything has been done to answer your complaint and if so, they should advise you of that in writing.

## **This is the end of Local Resolution**

## **Stage 2 - The Parliamentary and Health Service Ombudsman (PHSO)**

You have the right to take your complaint to the Parliamentary and Health Service Ombudsman if you are not satisfied with the way your complaint has been dealt with by the NHS. The Ombudsman is independent of the NHS and of government and their services are free and confidential.

You should submit a complaint no later than one year from the date of the events you are complaining about (or from when you first became aware of the matter), although the Ombudsman can extend this time limit, for example, if the Local Resolution process took longer than a year.

The Ombudsman will look at every complaint that comes to them but they do not (and are not required to) investigate all the complaints referred to them; this is a matter for their discretion. They will not normally investigate your case unless you have already tried to resolve the problem using Local Resolution.

The Ombudsman can refer you back to the Local Resolution stage of the NHS Complaints Procedure if they think you have come to the Ombudsman too soon, or if they feel that the NHS organisation involved has not done all it can to resolve your issues locally.

The Ombudsman will not usually investigate a complaint where:

- You do not agree with a decision made by your NHS provider but cannot
- offer any evidence as to why their decision is wrong or unsatisfactory
- They decide that there is no evidence to suggest that the NHS provider acted wrongly
- They decide that the NHS provider or practitioner has done all they reasonably could do to put things right
- They decide there would not be a worthwhile outcome from an investigation (for example, if the remedy sought by the complainant is not possible through this procedure)

Initially, a member of the Ombudsman's staff will consider whether your case meets the Ombudsman's criteria for investigation. To carry out this assessment they may need to see clinical records and other papers involved in your complaint with this in mind a member of the Ombudsman's staff will contact you to ask for any papers they need and will write to you to let you know the outcome of the assessment.

If you take your complaint to the Ombudsman, there are three main outcomes:

1. The Ombudsman may decide not to investigate the case and take no further action (for example, if they think that the NHS has done all it can to resolve your complaint locally).

2. The Ombudsman may decide not to investigate the case but may ask the NHS provider or practitioner to take action which they think would resolve your complaint more quickly without the need for an Ombudsman investigation; this is called an 'intervention'.

3. The Ombudsman may decide to carry out an in-depth investigation resulting in a detailed report about the case; this investigation will be very thorough and can therefore take some time. The Ombudsman aims to complete 90% of investigations within 12 months.

## **If your complaint is investigated by the Ombudsman**

The Ombudsman will write a detailed report about the case. If the complaint is upheld they can make recommendations to the NHS provider or practitioner to put things right.

## **The Ombudsman's decision**

The Ombudsman's decision about your complaint is final. This includes their decision whether or not to investigate your complaint and their decision whether or not to uphold your complaint following an investigation.

# **Questions and Answers**

## **Who can complain?**

Any NHS patient can complain about any NHS service they have received and are unhappy about. You can complain on behalf of someone else in certain circumstances (see more below). NHS services include treatment and care given by your GP, dental surgery, hospital and the ambulance service. Anyone who is affected, or likely to be affected by the action, omission or decision of an NHS body can make a complaint.

## **My mother is elderly and I don't feel she could manage a complaints process. Can I complain for her?**

You may complain on behalf of a friend or relative as long as they agree; you should get their permission in writing. A consent and confidentiality form is included with this pack.

## **My partner has Alzheimer's Disease; do I still need her permission to make a complaint?**

If your friend or relative is very ill, or does not have the capacity to give permission because of an impairment or a disability, you may complain on their behalf without their permission, although the trust will confirm the patient's lack of capacity before accepting the complaint. If they do not accept the complaint they must inform you in writing why they have made this decision.

## **My father died and I didn't have his consent to act for him; can I make a complaint about his treatment?**

Yes, you may raise a complaint or take over a complaint on behalf of a friend or relative who has died even if you do not have their written permission. In some cases the NHS may decide not to accept you as a suitable representative, they will discuss this with you.

## **My nephew is 15 and has Down's syndrome. Can I complain on his behalf without his written permission?**

A complaint can be made on behalf of a child (Under 18) if the child is unable to make the complaint themselves. NHS organisations must not consider a complaint made by a representative of a child unless they are sure that the child is unable to complain themselves; they must inform you in writing if they make this decision and tell you why.

## **Can I complain about something which happened in the past?**

It depends on how long ago it happened. You should make your complaint

Within 12 months of the incident happening

**Or**

Within 12 months of you realising you had something to complain about.

NHS organisations are allowed to waive this time limit if there are good reasons why you could not complain earlier; one such case might be if you were too ill to complain at the time.

## **I had an operation in a private hospital; can I complain to the NHS?**

It depends. If the NHS paid for your operation in a private hospital you can complain to the NHS. If you paid for your treatment yourself, or with private medical insurance, you cannot complain to the NHS. The private hospital will have its own complaints procedure which you should follow.

## **I want to sue the surgeon who operated on me; how do I go about it?**

You will need to take legal action if you want to make a claim for clinical negligence; the NHS Complaints Procedure does not deal with these cases. You can find details of local specialist solicitors by contacting Community Legal Services Direct.

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