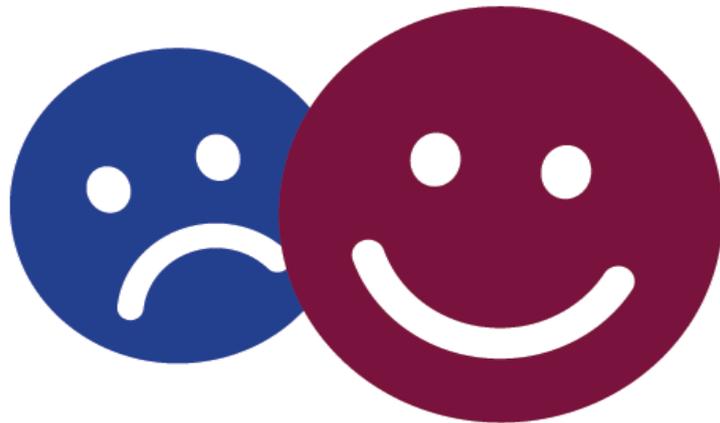


# Making a complaint to the NHS

## A SELF-HELP guide



Independent  
**ADVOCACY**

*Giving voice* to people in need



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## 1. Introduction

The National Health Service (NHS) is the main provider of health care services in the UK. Most health care services are provided directly by the NHS, others such as dental care, eye care and some specialist hospital services are paid for by the NHS but provided by private organisations. If the NHS pays for your care or treatment you have the right to complain through NHS complaints procedure when that care or treatment is unsatisfactory. These services include:

Hospitals

G.P Surgeries

Dentists

Opticians

Ambulance

Community Mental Health services

Improving Access to Psychological Therapy (IAPT/Healthy Minds)

Community Learning Disabilities services

Specialist private hospitals (where services are commissioned by NHS)

Services provided through Continuing Health Care (CHC) including care homes.

The NHS complaints procedure should serve to resolve patients' concerns as best as possible and to provide a learning platform for the NHS to make continuous improvements to its services. The size of the NHS and the nature of the wide variety of complaints it receives presents a huge challenge.

Hopefully, you will find this guide informative and useful when considering taking a complaint forward. Your comments and feedback are always welcome as this guide does not claim to be a definitive resource on the subject.

## 2. Your rights

The NHS Constitution states:

### “You have the right”

- to have any complaint you make about NHS services acknowledged within three working days and to have it properly investigated.
- to discuss the manner in which the complaint is to be handled, and to know the period within which the investigation is likely to be completed and the response sent.
- 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.
- to take your complaint to the Parliamentary Health Service Ombudsman if you are not satisfied with the way your complaint has been dealt with by the NHS.

Under the Data Protection Act 1998 **you have the right** to see your medical records unless:

- Your doctor thinks that to do so would seriously harm you or another person.
- Providing them would involve disproportionate effort on the part of the NHS.

### 3. Who can complain?

The patient\* can complain, but so too can their nominated representative whether this be a friend, relative or somebody else. If the patient chooses somebody to act on their behalf, the signed authorisation of the patient is likely to be required particularly when medical records are being requested. A simple covering letter will suffice and an example is provided at section 12.

Of course it is not always possible to obtain the signed authorisation of the patient. The patient may not be physically able to give signed consent. They may have passed away or lack the mental capacity to raise the complaint themselves and instruct someone to do so on their behalf. In which case, this will need to be clearly stated in correspondence quoting the patient's NHS number if known, address, date of birth and explaining the complainant's relationship to the patient.

Where a complaint is made on behalf of a child, the NHS must be satisfied that there are reasonable grounds for a complaint to be made by a representative instead of the child. Where a complaint is made on behalf of a child or someone who lacks mental capacity must be satisfied that the complaint is being made in the best interests of that person.

An Independent Complaints Advocate can raise a complaint on behalf of a patient or a patient's representative. A Complaints Advocate will always obtain signed consent from the patient or their representative. Independent Advocacy's Client Authorisation form can be downloaded from our website.

*\*The term "patient" may not strictly apply if the individual concerned is in receipt of community services, but for the purposes of this document "patient" refers to any person in receipt of the NHS funded services that are subject to the complaint.*

## 4. Who do I complain to?

The most immediate body to complain to is the service provider who treated you or provided you with the service. The table below is a list of NHS services in the vicinity of Solihull Metropolitan Borough Council area.

Service Provider	Who to complain to
G.P Surgery	Practice Manager
Dental Surgery	Practice Manager
Optician	Practice Manager
Ambulance	West Midlands Ambulance Service NHS Foundation Trust
Mental Health Services	Birmingham & Solihull Mental Health Foundation Trust
Learning Disability Services	Coventry & Warwickshire Partnership NHS Trust
Healthy Minds (IAPT)	Birmingham & Solihull Mental Health Foundation Trust
Heartlands Hospital	Heart of England NHS Foundation Trust
Solihull Hospital & Community Services	Heart of England NHS Foundation Trust
Good Hope Hospital	Heart of England NHS Foundation Trust
Birmingham Chest Clinic	Heart of England NHS Foundation Trust
Queen Elizabeth Hospital	University Hospitals Birmingham NHS Foundation Trust
Birmingham City Hospital	Sandwell & West Birmingham Hospitals NHS Trust
Birmingham Midland Eye Centre	Sandwell & West Birmingham Hospitals NHS Trust
Royal Orthopaedic Hospital	Royal Orthopaedic Hospital NHS Foundation Trust

You may choose not to complain to the service provider themselves. You may prefer to complain to the commissioner of the service. In the case of a primary care service, i.e. G.P, Dentist or Optician, the Commissioner is NHS England. For hospitals and other secondary health services, the Commissioner is Solihull CCG.

There may be cases where you received a service from a private provider that was paid for by the NHS, for example a nursing home placement paid for by NHS Continuing Healthcare. You could either raise your complaint through the service provider's complaints procedure or you could raise your complaint with the Clinical Commissioning Group who paid for the service using the NHS Complaints procedure.

For each individual complaint you should only complain to one organisation at a time to avoid confusion, repetition and conflict of interest. For example, a complaint about a hospital can be done through the hospital trust themselves

or the clinical commissioning group who commission their service, but should not be done through both simultaneously.

You can raise your complaint verbally by telephone, by email or by letter. It is better to complain by letter if possible addressing it to Chief Executive or the Responsible Officer. Your complaint will receive a unique reference number that can always be referred to.

If you are not satisfied with the final response you receive to your complaint or you have not received the final response after six months, you then have the right to pursue your complaint to the Parliamentary and Health Service Ombudsman.

Of course, there are a wide variety of situations that could occur and some complaints may involve different providers. If your complaint doesn't appear straight forward, **contact our advocacy enquiry line on 02476 697443** to speak to someone who can help you explore your options and help you decide the best route to take in order to have your concerns addressed in the best way possible.

## 5. What can be achieved?

The NHS constitution pledges:

*“to 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 and, to ensure that the organisation learns lessons from complaints and claims and uses these to improve NHS services.”*

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

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

There are different routes to obtaining redress for mistakes that may have happened. The route to choose is a matter of individual circumstance and to a large extent depends on the impact of the mistake and proof of culpability.

The NHS complaints procedure is an internal process that leads to the NHS providing its own response. This response can ultimately be reviewed by the Parliamentary Health Service Ombudsman (PHSO).

Claims for clinical negligence may best be achieved through a legal process with the help of a solicitor.

Taking action against an individual NHS staff member is not possible through the NHS complaints procedure. Grievances against individuals must be taken up with the professional body providing their registration such as: the General Medical Council (GMC) or The Nursing & Midwifery Council (NMC). That is not to say that employees of the NHS cannot be disciplined as a result of a complaint that is raised.

It is possible to receive financial compensation from the NHS particularly where it can be demonstrated that someone is out of pocket as a result of mistakes that were made. However, this becomes more difficult as the amount of compensation sought increases.

## 6. How to complain

Before you raise your complaint it may be helpful to gather together all correspondence, reports, appointment letters etc that enable you to piece together the history of what has happened and create a diary of events surrounding what has gone wrong. You could also make some hand written notes to help jog your memory. Ask friends or relatives for information if they were present at the time or can remember things you can't. It may be helpful at this stage to request your medical records that cover the period of time in question as it may raise other questions as well as provide information. It is not essential that you should request your medical records however the nature and seriousness of your complaint may prompt you to do so.

For very simple and straight forward complaints, a telephone call may suffice. The person who receives and records your complaint should make notes then summarise your complaint in a letter of acknowledgement. More complex complaints such as those involving a long hospital admission should be made in writing either by email or letter (see section 11). You should receive a response and acknowledgement of your complaint within three working days.

Outlining your complaint in chronological order and identifying the dates that events took place is the most efficient way to explain your concerns and makes the complaint easier to follow. You should identify all the questions that you want answering. You should then state what it is you want to see as the outcome of your complaint, i.e. what do you want done? Ask that the complaint is dealt with under the NHS Complaints procedure. Provide evidence where possible but send copies (not originals) of supporting documentation. As a matter of good practice you might find it helpful to write out your complaint and leave it for a day or two and then come back to it. This way you can review it afresh and make any necessary adjustments you feel would make your complaint stronger and more receptive.

- Be polite, but firm with your complaint and try to avoid accusations and aggressive language.
- Try not to repeat yourself.

- Set out the paragraphs of your letter or email in relation to each element of your complaint and try to avoid very long sentences.
- Keep an original copy of your complaint if made in writing and any supporting documents.

## 7. The NHS Complaints Procedure

The NHS Complaints Procedure is an internal investigation process that should seek to make good the errors in care and treatment where it can and learn the lessons of failure to improve services for the future. It is not:

- A mechanism to have clinicians 'struck off' or dismissed.
- A route to proving clinical negligence.

The NHS complaints procedure does not apply to health care that is paid for privately. Each private organisation should have its own complaints procedure.

You have twelve months to raise your complaint from the time of the incident or from becoming aware that something has gone wrong. The NHS can use its discretion to receive complaints after this time particularly if someone was too unwell to do so earlier. Of course it is better to raise your concerns as soon as possible because in many instances, it may stop matters getting worse as they are happening. This should not affect your care or treatment, indeed the NHS pledges *"to ensure that you are treated with courtesy and you receive appropriate support throughout the handling of a complaint; and the fact that you have complained will not adversely affect your future treatment."*

Within three days you should receive an acknowledgement for your complaint. Primary care providers usually commit to providing a full response within ten days, an NHS Trust usually twenty five days. If the complaint is particularly complex, the person responsible for handling your complaint should explain the delay and provide a revised deadline. The ten and twenty five day response times are reasonably standard across the NHS but in fact the "relevant period" stipulated in the Statutory Regulations to provide a full response is six months. It is not unusual for the NHS to miss the six month deadline. Under these circumstances you can take your complaint to the Parliamentary & Health Service Ombudsman without having received the full response. See section 8.

During the course of investigating your complaint the service provider may invite you to discuss your concerns at a 'Local Resolution' meeting. This is a

meeting where you are likely to meet the treating clinician, the operational manager, nursing staff and a representative from the complaints department. Meetings with G.P surgeries and Dentists will usually only involve the Practice Manager. It is your right to request to meet with particular clinicians, but this cannot always be guaranteed.

If you are invited to a meeting, then it is advisable to prepare with a list of questions that you want answering. You are entitled to be accompanied by a friend, relative or an NHS Complaints Advocate. These meetings are sometimes recorded (with your permission) and a CD version of the meeting is provided. You have the right to request that you record the meeting but this must be agreed by all parties involved.

A full response to the complaint may involve more than one meeting and several letters to and fro, though there will come a point where the service provided will consider it has responded as fully as it can and provide a 'Final Response'. If you remain unsatisfied with the final response, you can continue your complaint by raising it with the Parliamentary and Health Service Ombudsman. There is no time limit for taking your complaint to the PHSO, but they do prefer that you do so within three months of the final response. The PHSO can refuse to accept your complaint if the delay is over a year and you cannot provide good reason for the delay.

Delays in raising your initial complaint or pursuing it to the PHSO may affect the capacity to investigate your concerns because NHS Staff move on and may not be contactable anymore. Do bear this in mind, particularly if your treating physician is a locum.

## 8. The Parliamentary & Health Service Ombudsman

Taking your complaint to the PHSO is the final stage of the NHS complaints procedure. The PHSO is independent of the NHS and of Government and their powers are set down in law. The PHSO will only look at your complaint if:

- You have concluded the process with the NHS provider or
- The NHS provider has not issued a full response within six months and
- They believe you have grounds for complaint

The PHSO can instruct the NHS body to investigate your complaint further if they feel that not enough has been done to answer your concerns. If the PHSO agrees to uphold part or all of your complaint, it can instruct the NHS to issue one or a combination of the following:

- Issue an apology
- Acknowledge mistakes
- Provide a better explanation
- Provide compensation

The PHSO aims to take an unbiased approach to the complaint and will look at evidence from all parties involved. They may request clinical records and take expert advice to make sure they have a clear understanding of what happened. Their decision is usually final. There is no automatic right to have a review, but they will consider whether to review a decision if they got something wrong. To do this you will need to show them that:

- They made their decision based on inaccurate facts that could change their decision or
- you have new and relevant information that was not previously available and which might change their decision or
- they overlooked or misunderstood parts of your complaint or did not take account of relevant information, which could change their decision.

You should do this **within three months** of when they sent you the decision on your original complaint. If you are unable to do that, you will need to explain why and they will consider whether there is a good reason to look at the information you send after that time.

It is possible to challenge a PHSO decision through Judicial Review.

## 9. Support with your complaint – NHS Complaints Advocacy

Complaints Advocacy is a Statutory Service commissioned by your local authority (Council). It is a free (at the point of delivery) service provided to residents of your council area. It is totally independent of the NHS and is confidential.

Independent Advocacy can support you through the NHS Complaints Procedure. The support available includes:

- Listening to your concerns in a non-judgmental way
- Discussing your complaint impartially
- Basic advice and guidance
- Tips on making your complaint
- Guiding you through the NHS Complaints Procedure
- Help with drafting letters
- Accompanying you to meetings
- Obtaining answers to your questions
- Support with taking your complaint to the Ombudsman
- Making representations on your behalf
- Signposting to professionals outside of the NHS complaints procedure

We can support you to explore your options towards achieving your preferred outcomes. We can discuss with you the different ways in which you can obtain the response you are looking for.

We believe in supporting people to advocate for themselves and help them to feel empowered. We believe in supporting people to exercise their rights, maximise their choices and have control over the decisions that affect their lives. You can access our service by email, telephone, by letter or by completing our online form on our website.

Website: [www.independentadvocacy.org](http://www.independentadvocacy.org)  
Telephone: 02476 697443  
Email: [office@independentadvocacy.org](mailto:office@independentadvocacy.org)

## 10. Accessing your medical records

It may be a good idea to obtain your medical records in preparation for any part of the complaints process. You may want to check if there is information held about you that you were previously unaware of. You may want to see what was recorded when you were perhaps unconscious or not included in discussions.

It can often be the case that the more technical aspects of your care and treatment are not explained to you fully. It is your right to be able to understand your condition as much as possible and to know the reasons why certain courses of treatment were taken. Obtaining your medical records can help you to understand what has happened and prompt you to ask questions that you may not have thought of previously. It may be that reading your notes confirms that medical staff did everything they could for you in providing you with the care and treatment you required. Raising a complaint can be as much about obtaining explanations as it is about seeking redress.

For very simple and straight forward issues, obtaining your notes may not be important and may incur unnecessary expense. In other more serious and complex situations, obtaining your notes will be an essential part of your pursuit of answers and redress.

Medical records will be in paper form as well as electronic and you should make clear that you are requesting both. It is advisable to ask if any of your notes are being withheld from you. Different parts of your records may be held in different places. It is important you know what you want and where to request it.

You can request your notes from your health services provider. Hospitals and Trusts will have a dedicated department for medical records. For smaller providers such as your G.P, you can ask the Practice Manager for your notes. Your health service provider will have a procedure for requesting your records that may involve completing a form. You should expect to pay between £10 and £50 for your records depending upon how much you have requested and

how much photocopying and printing is involved. You have the right to have anything that is difficult to read or obscured by technical jargon, explained in a way that is accessible.

For a more comprehensive guide to obtaining medical records see the link below:

[www.nhsmedicalrecords.org.uk](http://www.nhsmedicalrecords.org.uk)

## 11. Example complaint letter

[Your Name]  
[Your Address]  
[Your Postcode]

*Private & Confidential*  
*The Chief Executive/Practice Manager*  
*X NHS Foundation Trust/X Surgery*  
[Address]  
[Postcode]

Ref: [Patient's NHS number]

[Date]

Dear [name]

*I am writing to complain about the care and treatment I received from [hospital/surgery etc] [on/between] [date(s)].*

[Describe what happened, where and when, in chronological order]:

[1]  
[2]  
[3] etc

[Attach a diary of events as an appendix if the history of the case is more than a couple of pages long].

*I believe the standard of care and treatment I received fell some way short of my expectations.*  
[Describe the impact that it had and why you are not satisfied].

*I therefore request that you carry out a full investigation of this matter under the NHS Complaints Procedure and in accordance with the NHS Constitution.*

*In particular, I would like answers to the following questions:*

[1]  
[2]  
[3] etc

*I would like an apology for the standard of care and treatment I received from/during etc.*

[and/or]

*I would like to know what action is going to take in order to minimise the prospects of the same thing happening to somebody else in future, and the timescales for such action.*

[and/or]

*I would like you to compensate me with [x amount of money] that it has cost me to [explain expenditure] which I have spent as a direct result of [the errors made].*

*I enclose the following documentation [if available] as evidence in support of my complaint.*

[1]

[2]

[3] etc

*I look forward to receiving your acknowledgment of this letter within three working days and your indication of the timescale within which you aim to provide a full response.*

*Please contact me if you require further information.*

*Yours faithfully*

[Signed]

[Print name]

## 12. Authorisation letter

[Name]  
[Address]  
[NHS Number]

To whom it may concern

[Date]

*Dear Sir/Ms*

*I [name] authorise [name] of [address] to speak and act on my behalf and to request information about me in the course of dealing with my complaint(s) against [who/what?] and to obtain my medical records.*

*If you have any queries or concerns about this authorisation, please do not hesitate to contact me at the above address or on [telephone number].*

*Yours faithfully*

[name]

[signed]

## 13. Useful contacts

<p><b>NHS England</b> PO BOX 16738 Redditch B97 9PT</p>	<p><a href="http://www.england.nhs.uk">www.england.nhs.uk</a> <a href="mailto:england.contactus@nhs.net">england.contactus@nhs.net</a></p>
<p><b>Solihull CCG</b> Friars Gate 1011 Stratford Road Solihull West Midlands B90 4BN</p>	<p><a href="http://www.solihullccg.nhs.uk">www.solihullccg.nhs.uk</a> <a href="mailto:solihullccgcomplaints@nhs.net">solihullccgcomplaints@nhs.net</a></p>
<p><b>Heart of England NHS Foundation Trust</b> Bordesley Green East BIRMINGHAM B9 5SS</p>	<p><a href="http://www.heartofengland.nhs.uk">www.heartofengland.nhs.uk</a> <a href="mailto:bhs-tr.Complaints-ConcernsandCompliments@nhs.net">bhs-tr.Complaints-ConcernsandCompliments@nhs.net</a></p>
<p><b>Birmingham &amp; Solihull Mental Health Foundation Trust</b> Unit 1, B1 50 Summer Hill Road Birmingham B1 3RB</p>	<p><a href="http://www.bsmhft.nhs.uk">www.bsmhft.nhs.uk</a> <a href="mailto:PALS@bsmhft.nhs.uk">PALS@bsmhft.nhs.uk</a></p>
<p><b>Coventry &amp; Warwickshire Partnership NHS Trust</b> PALS and Complaints Coventry and Warwickshire Partnership NHS Trust Wayside House Wilsons Lane Coventry CV6 6NY</p>	<p><a href="http://www.covwarkpt.nhs.uk">www.covwarkpt.nhs.uk</a> <a href="mailto:PALS.complaints@covwarkpt.nhs.uk">PALS.complaints@covwarkpt.nhs.uk</a></p>
<p><b>West Midlands Ambulance Service NHS Foundation Trust</b> Patient Experience Team Millennium Point Waterfront Business Park Waterfront Way Brierley Hill West Midlands DY5 1LX</p>	<p><a href="http://www.wmas.nhs.uk">www.wmas.nhs.uk</a> <a href="mailto:complaints@wmas.nhs.uk">complaints@wmas.nhs.uk</a></p>
<p><b>University Hospitals Birmingham NHS Foundation Trust</b> Complaints Department 46F Nuffield House Queen Elizabeth Hospital Birmingham, B15 2TH</p>	<p><a href="http://www.uhb.nhs.uk">www.uhb.nhs.uk</a> <a href="mailto:Complaints@uhb.nhs.uk">Complaints@uhb.nhs.uk</a></p>
<p><b>Sandwell &amp; West Birmingham NHS Foundation Trust</b> Complaints Department City Hospital Dudley Road Birmingham B18 7QH</p>	<p><a href="http://www.swbh.nhs.uk">www.swbh.nhs.uk</a> <a href="mailto:swbh.complaints@nhs.net">swbh.complaints@nhs.net</a></p>
<p><b>Royal Orthopaedic Hospital NHS Foundation Trust</b> Bristol Road South Northfield, Birmingham B31 2AP</p>	<p><a href="http://www.roh.nhs.uk">www.roh.nhs.uk</a> <a href="mailto:roh-tr.complaints@nhs.net">roh-tr.complaints@nhs.net</a></p>

<b>Parliamentary &amp; Health Service Ombudsman</b> Mill Bank Tower Mill Bank London SW1P 4QP	<a href="http://www.ombudsman.org.uk">www.ombudsman.org.uk</a>  Download form
<b>Action Against Medical Accidents</b> Freedman House Christopher Wren Yard 117 High Street Croydon CR0 1QG	<a href="http://www.avma.org.uk">www.avma.org.uk</a>  Online form
<b>The Patient's Association</b> PO Box 935 Harrow Middlesex HA1 3YJ	<a href="http://www.patients-association.org.uk">www.patients-association.org.uk</a>  <a href="mailto:helpline@patients-association.com">helpline@patients-association.com</a>
<b>The General Medical Council</b> 3 Hardman Street Manchester M3 3AW	<a href="http://www.gmc-uk.org">www.gmc-uk.org</a>  <a href="mailto:gmc@gmc-uk.org">gmc@gmc-uk.org</a>
<b>The Nursing &amp; Midwifery Council</b> 23 Portland Place London W1B 1PZ	<a href="http://www.nmc.org.uk">www.nmc.org.uk</a>  <a href="mailto:newreferrals@nmc-uk.org">newreferrals@nmc-uk.org</a>
<b>The Health &amp; Care Professions Council</b> Fitness to Practise Department The Health and Care Professions Council Park House 184 Kennington Park Road London SE11 4BU	<a href="http://www.hcpc-uk.co.uk">www.hcpc-uk.co.uk</a>  <a href="mailto:ftp@hcpc-uk.org">ftp@hcpc-uk.org</a>
<b>Healthwatch England</b> Skipton House 80 London Road London SE1 6LH	<a href="http://www.healthwatch.co.uk">www.healthwatch.co.uk</a>  <a href="mailto:enquiries@healthwatch.co.uk">enquiries@healthwatch.co.uk</a>
<b>The Care Quality Commission</b> CQC National Customer Service Centre Citygate Gallowgate Newcastle upon Tyne NE1 4PA	<a href="http://www.cqc.org.uk">www.cqc.org.uk</a>  <a href="mailto:enquiries@cqc.org.uk">enquiries@cqc.org.uk</a>
<b>Department of Health</b> Ministerial Correspondence and Public Enquiries Unit Department of Health Richmond House 79 Whitehall, London SW1A 2NS	<a href="http://www.gov.uk/government/organisations/department-of-health">www.gov.uk/government/organisations/department-of-health</a>  Online form
<b>NHS</b>	<a href="http://www.nhs.uk/choiceintheNHS/Rightsandpledges/complaints/Pages/NHScomplaints">www.nhs.uk/choiceintheNHS/Rightsandpledges/complaints/Pages/NHScomplaints</a>

