

Why complain?

Anyone who has experienced poor medical treatment may decide to pursue a number of courses of action. Poor medical treatment may include, for example, errors or delays in diagnosis, poor communication from medical professionals, misleading advice or any other form of poor treatment including lack of treatment or incorrect or delays in treatment.

The five most common issues raised in the complaints the Ombudsman upheld about the NHS in England, 2014-15 were:

- delay in diagnosis, failure to diagnose and misdiagnosis
- clinical care and treatment
- attitude of staff
- communication and information
- failure to treat

2015-2015: Issues investigated on all conducted NHS investigations



What can a complaint achieve?

If financial compensation is sought the advice of a solicitor is needed. Often, however, what is sought is an explanation for what went wrong and an apology or reassurance that any mistakes that may have been made will not be repeated.

How do I make a complaint?

The starting point for making a complaint is the NHS complaints procedure. This internal complaints procedure covers complaints made in relation to all services provided or paid for by NHS organisations or primary care practitioners. There are two stages to the procedure:

1. making a complaint followed by
2. an independent review by the Parliamentary and Health Service Ombudsman.

This part of the process simply requires you to contact the manager at the organisation where the care was received (ie, the GP surgery or hospital).

When to complain

You should make your complaint as soon as possible. Complaints should normally be made within 12 months of the date of the event that you're complaining about, or as soon as you found out about the problem.

The time limit can sometimes be extended but only if it's still possible to investigate the complaint. For example, the time limit could be extended if it would have been very difficult for you to complain earlier, because you were undergoing trauma.

When making a complaint, you need to be conscious of deadlines relating to any legal claim, and must not delay seeking legal advice if you want to find out whether you are entitled to financial compensation. There are strict time limits for bringing a legal claim which, if missed, will prevent you from bringing a claim forever.

Who to complain to

It is not normally necessary to complain to each individual organisation, where more than one has been involved. The organisation who receives your complaint should liaise with all the health care providers involved and inform them of the letter of complaint. It is best to direct the complaint to the key organisation involved in the treatment.

If the key organisation is your GP's practice

If you feel uncomfortable about complaining directly to your GP, you can make a complaint to the commissioner of the services instead. GP services are commissioned by NHS England. You should direct your complaint :

By post to:

NHS England
PO Box 16738
Redditch
B97 9PT

By email to:

england.contactus@nhs.net

Please state:

'For the attention of complaints team in the subject line.

Details of NHS England's complaints procedure is at:

<https://www.england.nhs.uk/contact-us/complaint>

If the key organisation is a hospital

If complaining about the care you received at a hospital, you should write to the Complaints Manager of the Trust with responsibility for the hospital. Each Hospital Trust must publish details of its complaints procedure and you can request a copy. The easiest way to find out the individual Trust's complaints procedure is to look on the Trust's website.

What to include in your complaint

What do you hope to achieve?

If you decide to make a complaint it's important to consider what you want to happen. For example, you may want

- to get the service you need
- procedures to improve
- an explanation of what went wrong and an apology
- someone to be disciplined or prosecuted
- Compensation

The complaints procedure is not specifically designed to award compensation, but NHS bodies and the local authority do have the discretion to make one-off payments (called **ex-gratia payments**). These are normally very modest and would not be sufficient to pay for extensive long term needs.

Whatever action you're hoping for, make this clear in your complaint and keep it in mind when preparing your complaint.

What information should you have to make your complaint?

Before you make your complaint, make a note of the relevant events, dates, times, names and conversations, and include all necessary details. Your notes will also help you to remember all the details in the future. Processing a complaint can take some time, and you might be asked to verify information at a later stage.

How much detail should I go into?

Whether you decide to complain orally or in writing, try to make your explanations as short and clear as possible. Focus on the main issues, and leave out irrelevant details. If you can, talk through what you want to say with someone else, or ask them to read what you've written before you send it. If you complain in writing, keep a copy of everything you post, and make a note of when you sent it.

You should provide as much information as possible to allow your complaint to be investigated, such as:

- your name and contact details
- a clear description of your complaint and any relevant times and dates
- details of any relevant healthcare providers or services
- any relevant correspondence, if applicable

Organisations who can help

If you would like help to formulate your complaint there are several organisations you can contact:

Patient Advice and Liaison Service

Most hospitals have a Patient Advice and Liaison Service (PALS). They offer confidential advice, support and information on health-related matters to patients, their families and their carers. PALS provides help in many ways. For example, it can:

- help you with health-related questions
- help resolve concerns or problems when you're using the NHS
- tell you how to get more involved in your own healthcare

PALS can give you information about:

- the NHS
- the NHS complaints procedure, including how to get independent help if you want to make a complaint
- support groups outside the NHS

Details of your local PALS office will be published on the hospital website or you can [find your nearest PALS office on the NHS Choices website](#).

You can also ask your GP surgery, hospital or phone [NHS 111](#) for details of your nearest PALS.

NHS Complaints Advocacy Service

All local authorities have a statutory duty to commission independent advocacy services to provide support for people making, or thinking of making, a complaint about their NHS care or treatment.

The NHS Complaints Advocacy Service is:

- Free
- Independent
- Confidential

Local authorities contract different service providers to supply NHS complaints advocacy services. You can find your local advocacy provider here: <http://nhscomplaintsadvocacy.org/find-your-nearest>

Citizens Advice Bureau

Your local Citizens Advice Bureau can be a great source of advice and support if you want to complain about the NHS, social services or local authorities. You can find your local Citizens Advice Bureau here: <https://www.citizensadvice.org.uk/about-us/how-we-provide-advice/advice/search-for-your-local-citizens-advice>

Healthwatch

Healthwatch England is the national consumer champion in health and care. They have significant statutory powers to ensure the voice of the consumer is strengthened and heard by those who commission, deliver and regulate health and care services. Your Local Healthwatch may also offer free independent information or advice about how to make a comment about local health services. You can find your local Healthwatch here: <http://www.healthwatch.co.uk>

Action against Medical Accidents

Action against Medical Accidents (AvMA) is the UK charity for patient safety and justice. They provide free independent advice and support to people affected by medical accidents (lapses in patient safety) through their specialist helpline, written casework and inquest support services.

Their helpline number is: 0845 123 2352. Their website is: <http://www.avma.org.uk>

What happens after you make the complaint?

If you make your complaint about the care provided by your GP to NHS England you will receive the findings of the investigation together with an appropriate apology and the changes or learning that have taken place as a result of the investigation.

If you make your complaint to a hospital trust, although each trust publishes details of its own procedures, in general the trust will contact you on receipt of your complaint. They will acknowledge receipt of your complaint and tell you how your complaint will be investigated. The trust will investigate and generally aim to answer your complaint in full within a specified time, normally 25 working days. However, if your complaint is particularly complex or involves other organisations, the trust may require more time to respond. Where possible, they should tell you this at the outset. They may offer a meeting if they feel that would be beneficial.

You need to be conscious of deadlines relating to any legal claim, and must not delay seeking legal advice while waiting for a response to your complaint if you wish to seek financial compensation.

Making a complaint – Stage two

Referral to Parliamentary and Health Service
Ombudsman for independent review

If you are unhappy with the outcome of your complaint you can refer the matter to the Parliamentary and Health Service Ombudsman, who is independent of the NHS and government.

In 2014-15 the Parliamentary and Health Service Ombudsman reported that they handled a total of 29,000 complaints. Of these, 6,815 were looked at in depth and 5,058 were investigated or resolved without needing a full investigation.



(Source: The Ombudsman Annual Report and Accounts 2014-15)

To make a complaint visit <http://www.ombudsman.org.uk/complain-for-change/home> or call 0345 015 403

Also find advice on how to prepare your complaint on the Parliamentary and Health Service Ombudsman website: <http://www.ombudsman.org.uk/complain-for-change/our-resources/tips-on-making-a-complaint-about-uk-government-services>.

For example, keep in mind to provide:

- your name, address and telephone number
- name and contact details of anyone helping you with the complaint
- name and contact details of the healthcare provider you wish to complain about
- the factual details of your complaint (listing the main events and when they happened)
- why you think your previous complaint wasn't resolved to your satisfaction, and how this has caused you injustice
- details of the complaints you've already made to the healthcare provider and the outcome of their investigations
- copies of any relevant documents (it's usually helpful to number these and provide a list)

A new Healthcare Safety Investigation Branch (HSIB) is to begin work by 1 April 2017 so this may affect the procedures outlined above.

This brochure has been prepared by Bolt Burdon Kemp. We specialise in claims for medical negligence including birth injuries, brain injuries, spinal injuries and claims relating to the military.

Call us today to find out how our specialist teams can help you on **020 7288 4800** or email us on info@boltburdonkemp.co.uk.

www.boltburdonkemp.co.uk