

Accountability in the NHS- where to go if you have a problem

This leaflet gives information about where you can go if you have a problem with the NHS care you or someone you know have received.

This information is relevant to England only.

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1) Complaints process

If you are not happy with the medical treatment or care that you or a family member has received under the NHS, it is your right to have your concerns investigated and to be given a full and prompt response by the treating body. This is known as the NHS complaints procedure.

Since April 2009, the NHS has run a more simplified complaints process, which has two stages; a local review and then an independent review by the Parliamentary Health Service Ombudsman.

If you start a complaint it is important to keep all correspondence in case it is ever needed as evidence.

1a) Local complaints process

If you want to make a complaint about the treatment you or a family member have received in NHS care, you should put this in writing and send it to the Chief Executive of the Trust responsible for that hospital or the person/group responsible for commissioning the service. You need to make the complaint within 12 months of the incident.

What to mention in your complaint

- Who and/or what your complaint is about
- Where and when the events happened
- What you have done already about the complaint
- What result you want, eg an investigation and explanation of what happened
- A request for an 'independent' examination of the medical records

Once you have made a complaint you should get an acknowledgement no later than 3 working days after it has been received. At the same time, you should also be:

- Offered the opportunity to discuss your complaint
- Advised of the way in which your complaint is going to be investigated
- Be advised of the time period within which the investigation of your complaint is likely to be completed.

At the end of the investigation you should receive a formal written response. Sometimes, as part of the investigation, you may be invited to meetings. These can be helpful if there are complex medical issues. The complaint manager allocated to your case should explain the format these meetings will take.

Once the NHS organisation considers that the complaint has been sufficiently addressed, they should send you a full written response. This concludes the local complaints stage.

1b) Parliamentary Health Service Ombudsman

If you are not satisfied with the response to your complaint coming out of the local complaints process, then you have the right to request an Independent Review of your complaint by the Parliamentary Health Service Ombudsman. This request should be made within 12 months of the incident in question.

What to mention in your complaint

- A summary of the events in question
- Details of the main issues of concern
- Details of what action has been taken so far
- Details of what you remain unhappy with
- Why you feel that further action under the Local Resolution stage of the complaint would not adequately address the issues

If your complaint is found to be justified the Ombudsman will seek an apology for you and potentially call for changes to be made by the NHS. The Ombudsman may call for changes to prevent such an incident happening again or a review of procedures. The Ombudsman will also look at whether you have faced injustice or hardship as a result of a failure in the NHS service. Occasionally, damages are paid.

Once your case has been received by the Ombudsman they should let you know within 5 days who your contact person is. This is the person you can contact for updates on how your complaint is progressing. Each case will be looked at individually. The Ombudsman will examine the issues that have been raised and how the complaint has been handled at a local level. Where appropriate the Ombudsman will take clinical advice and make a decision. Whilst many complaints are resolved within six months, more complex cases can take longer.

It should be noted that the Ombudsman does not take on all the cases that are referred to her, as some are judged to have been dealt with adequately through the local complaints stage, or have been sent to the Ombudsman too late.

2) Regulatory bodies

The Health and Social Care Act 2012 makes changes to the way health care is regulated in order to strengthen the way patients' interests are promoted and protected. The following are four of the key regulatory bodies of health care that you may come into contact with if you have a problem. Each of these regulators has the responsibility to protect, promote and maintain the health and safety of the public by ensuring the provision of high quality health services, though their specific functions differ slightly.

2a) General Medical Council (GMC)

The General Medical Council is the independent regulatory body for doctors in the UK. Their four main functions include:

- Keeping up-to-date registers of qualified doctors
- Encouraging good medical practice
- Promoting high standards of medical education and training
- Dealing with doctors whose fitness to practice is in question and puts patients' safety at risk.

If you have serious concerns over the treatment provided by a doctor and believe they may be a risk to patients then you should contact the General Medical Council. The General Medical Council can take the following action:

- Issue a warning to a doctor
- Require further training for a doctor, or require them to work under supervision
- Refer the doctor to the Medical Practitioners Tribunal Service for a fitness to practice panel hearing which, as well as the above, can place conditions on a doctor's registration, suspend the doctor from the register temporarily or remove the doctor from the register entirely. When a doctor is suspended or removed from the register they cannot practice for the period of the suspension or indefinitely if 'struck off'.

However, you should note that the General Medical Council cannot:

- Give you a detailed explanation of what happened to you – this can only come from the doctor or the healthcare organisation
- Order a doctor to provide the treatment you want
- Help you with a claim for compensation
- Fine a doctor
- Order a doctor to give you access to your records
- Make a doctor apologise to you.

2b) Nursing and Midwifery Council (NMC)

The Nursing and Midwifery Council is the independent regulatory body for nurses and midwives in the UK. They are responsible for:

- Setting standards of education, training, conduct and performance so that nurses and midwives can deliver high quality healthcare consistently throughout their careers
- Ensuring that nurses and midwives keep their skills and knowledge up to date and uphold professional standards
- Having clear and transparent processes to investigate nurses and midwives who fall short of established standards.

If you have serious concerns over the treatment provided by a nurse or midwife and believe they may be a risk to patients then you should contact the Nursing and Midwifery Council. When they receive a complaint, the Nursing and Midwifery Council will:

- Make an initial assessment of the complaint
- Where necessary, investigate the complaint
- Where necessary, a hearing or meeting will take place to decide on actions

The Nursing and Midwifery Council can take the following actions following a complaint:

- Caution a nurse or midwife
- Place conditions/restrictions on a nurse or midwife's practice, this can be temporary or permanent
- Suspend a nurse or midwife, this can be temporary or permanent
- 'Strike off' a nurse or midwife from the register.

2c) Care Quality Commission (CQC)

The Care Quality Commission is responsible for checking all hospitals, dentists, ambulances and care homes in England to ensure they meet national standards of quality and safety. They also have a duty to share their findings with the public. The national standards cover all aspects of care including:

- Treating people with dignity and respect
- Making sure food and drink provided in these settings meets people's needs
- Making sure that the environment is clean and safe
- Managing and staffing services.

The Care Quality Commission is responsible for registering services that meet these standards and carries out unannounced inspections of services to check that they continue to meet them. In addition, they use information from the public, care staff, care services and other organisations to judge the quality of care being provided by services.

If a service fails to meet the national standards, the CQC takes action. This includes:

- Issuing a fine or warning
- Stopping admissions into the service
- Suspending or cancelling the service's registration.

Services who fail to meet national standards are told to make improvements and the Care Quality Commission has a responsibility to check if these have been made.

On their website, you can search for a hospital to see what the latest check says and whether the hospital is meeting or not meeting the national standards. You can also share your own experience of a hospital with the Care Quality Commission.

2d) Monitor

Monitor is an independent body which was introduced in 2004 with a responsibility for regulating NHS foundation trusts. Under the Health and Social Care Act, Monitor's role will be changing and it will become the sector regulator for health care and will therefore be responsible for regulating all providers of NHS-funded services in England.

Monitor's new functions will include:

- Licensing providers of NHS care
- Enabling integrated care
- Assessing NHS providers for foundation trust status
- Ensuring continuity of services

Monitor's main duty is to protect and promote the interests of people who use health care services by promoting the provision of high quality services. Monitor will work closely with NHS England, the Care Quality Commission and NICE to help ensure that the providers of NHS-funded services, the commissioners of those services and above all the users of those services are able to make sure that the best possible care is delivered.

3) New structures

It is important that NHS services are accountable to patients, including people with a learning disability. This is particularly important when NHS care fails. The Health and Social Care Act has introduced new bodies that it is hoped will increase accountability in the NHS and, in turn, improve the quality of care that patients receive.

3a) Healthwatch

Healthwatch replaces Local Involvement Networks. It acts as the "consumer champion" for health and social care. To do this, it provides patient feedback to the rest of the NHS and supports patients in making complaints. Healthwatch operates at a national and local level.

Local Healthwatch, which is operating from April 2013, is commissioned by local authorities but reports to the Care Quality Commission. Local Healthwatch represents the views and protects the rights of patients, provides advocacy and supports people to access and make choices about services, including those who lack capacity. They also help those who want to make a complaint.

At a national level, Healthwatch England, established in October 2012, provides advice, support and leadership to the Local Healthwatch organisations across the country.

If you have concerns about NHS services locally or nationally you should contact Healthwatch to give them this information and seek advice. If you wish to make a complaint about NHS care, Healthwatch will be able to support you.

3b) Health and wellbeing boards

Health and wellbeing boards are run by local authorities, bringing together elected representatives from the council with representatives from the NHS, social care, children's and public health services.

Health and wellbeing boards are intended to improve coordination and planning across health and social care. Once established, the boards are responsible for monitoring:

- The quality of health and care services; and
- The health and wellbeing of local people

You should contact your Health and Wellbeing Board about any issues relating to the quality of health and care services in your area.

4) Useful links

How to make a complaint:

<http://www.nhs.uk/choiceintheNHS/Rightsandpledges/complaints/Pages/NHScomplaints.aspx>

Parliamentary and Health Service Ombudsman:

<http://www.ombudsman.org.uk/make-a-complaint>

General Medical Council: http://www.gmc-uk.org/concerns/making_a_complaint/a_patients_guide.asp

Nursing and Midwifery Council: <http://www.nmc-uk.org/General-public/Reporting-a-nurse-or-midwife-to-the-NMC/>

Care Quality Commission: <http://www.cqc.org.uk/>

Monitor: <http://www.monitor-nhsft.gov.uk/about-monitor-0>

Healthwatch: <http://www.healthwatch.co.uk/>

Local Healthwatch contact details:

<http://www.healthwatch.co.uk/resource/local-healthwatch-contact-listing>

5) More information

For more information contact the campaigns & policy team at Mencap by calling 020 7696 6952 or emailing campaigns@mencap.org.uk

Alternatively, you can always call Mencap Direct on 0808 808 1111