

MAKING A COMPLAINT ABOUT HEALTHCARE ADVOCACY PACK

HOW TO COMPLAIN ABOUT THE HEALTHCARE YOU RECEIVED

Unfortunately, people with diabetes sometimes experience problems with the standard of healthcare they receive.

If you, or a friend or relative, have experienced problems with healthcare you may wish to make a complaint. Finding out how to complain about the care and health services you have received can sometimes be difficult.

This information pack explains the steps to take and gives details of the help and support available.

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Introduction

If you are not happy with the care or treatment you have received, or you have been refused treatment you have the right to complain and to have your complaint investigated. All National Health Service (NHS) funded healthcare services have a duty to acknowledge and take seriously any complaint made. Complaints procedures differ in different countries in the UK. The NHS complaints procedure, which applies in England, Wales and Scotland, and the Health and Social Care Board (HSC) procedure in Northern Ireland, covers complaints about the standard of care received, and the way the care was provided. It also covers the way medical and non-medical staff treated you whilst you were receiving care.

What services are covered by the NHS and HSC complaints procedure?

You can use the complaints procedure to complain about the healthcare you have received from:

- your GP practice and any other Healthcare Professional providing you with healthcare
- a hospital trust/foundation trust, mental health trust, or ambulance trust
- an independent hospital/ treatment centre that was paid by the NHS/HSC to give you care
- a care home or nursing home providing NHS services.

Who can make a complaint?

You can make a complaint on your own behalf or on behalf of a friend or relative, or if you have the relevant entitlement to be involved in someone's affairs, for example you hold Power of Attorney.

How does the complaints process work?

There are three stages in the complaints process. Before you make a formal complaint you should usually try to resolve the problem informally by talking to a member of staff at the time, and the place where the problem has happened. Sometimes members of staff may not be aware that there is a problem, and may be able to resolve it once they have been told about it. It is helpful to keep a note of any informal discussion ensuring you include these details:

- date and time you spoke to a member of staff about the complaint
- who you spoke to
- details of what was discussed and what you were told would happen next.

If an informal approach doesn't work, or wouldn't be appropriate you can make a formal complaint using the formal complaints procedure. This is referred to as Local Resolution. If you are not satisfied with the response you get at the local level you can take your complaint to the relevant Ombudsman.

How can I make a complaint locally?

Every NHS/HSC service provider must have a procedure in place for receiving formal complaints, and there should be a complaints manager in charge of handling complaints.

The organisation should make it easy to find out who the complaints manager is, and how to get a copy of the complaints procedure. If your complaint is about a GP practice or a dental practice the complaints manager is likely to be one of the practice managers. If your complaint is about a hospital trust there must be a manager responsible for managing the complaints procedure and considering complaints. Any organisation that has a contract to provide NHS services, for example a care home or nursing home, must also have a procedure for handling and considering complaints.

You can make a complaint to the complaints manager by writing a letter, email or by telephone. It is useful to put your complaint in writing and have a written record of your complaint. Action against Medical Accidents (AvMA) has a sample letter of complaint on their website which you may find helpful. For contact details for AvMA see 'Sources of support and information' at the end of this pack.

When you make your complaint it is useful to think about what you want to achieve, for example you may want an explanation of what happened, or to highlight what you see as poor practice so that other people do not have the same experience. You should make it clear that you are making a formal complaint and include:

- clear details of what happened, or what went wrong
- keep your explanations short and as clear as possible
- try to avoid the use of aggressive or accusatory language
- include all the relevant dates, time and names if possible
- attach copies of any relevant letters or documents
- explain what you would like the organisation to do as a result of your complaint, for example, an apology, better service, an explanation of what (if anything) will be changed to prevent the problem happening again

- keep a note of dates, times, names involved in conversations, phone calls or meetings you have and copies of all emails and letters
- if the organisation responds to you by telephone, ask them to confirm their response in writing.

If the complaint is made in writing make sure you keep a copy of the complaint letter and copies of any correspondence sent in. If you are sending in other documentation make sure you send in copies and keep the originals.

What are the time limits for making a formal complaint locally?

You should usually make your complaint as soon as possible after the issue you wish to complain about, as this will make it easier for the complaints manager to investigate the complaint.

In **England and Wales** you must complain within 12 months of the incident or issue you are unhappy with or within 12 months of realising you have concerns. In **Scotland** the time limit is within six months from the time when the problem arose or within six months of becoming aware there was a problem.

In **Northern Ireland** you have six months from the date the incident occurred. If you were not aware that there was cause for complaint then the six month time limit starts from the date you were aware something was wrong, as long as this is within 12 months of the date of the incident.

In some cases you may still be able to complain after the time limit if you have a good reason, for example if you were too ill to make the complaint or suffering grief or trauma at the time.

Who can help me make a complaint?

Making a complaint about healthcare can feel daunting. You may find it helpful to speak to organisations that can help. They may be able to arrange independent advocacy for you, attend meetings with you and, with your permission, pass on information on your behalf.

These organisations can provide you with free independent advice and help with making a complaint. They can also give you details of other organisations that can help:

England

Patient Advice and Liaison Service (PALS)

Before you make a formal complaint you may wish to talk to PALS. This service is funded by the NHS. PALS may be able to help you resolve less serious concerns informally and can also give you information about how to make a formal complaint and put you in touch with advocacy services.

NHS Complaints Advocacy

NHS Complaints Advocacy is independent of the NHS and can provide support throughout the whole of the complaints process. Both PALS and NHS Complaints Advocacy will, with your permission, refer on to each other if it is more appropriate that you use the other service.

Wales

Community Health Council (CHC)

Local CHCs are independent of the NHS and can provide help and advice about making a complaint. Each CHC has a Complaints Advocacy Service to assist with individual complaints.

Scotland

Citizens Advice Bureau (CAB)

The Scottish Citizens Advice Bureaux Service provides help and advice for people making complaints about healthcare in Scotland through its Patient Advice and Support Service (PASS). The service is independent and provides advice and support to people who wish to give feedback, make comments or make a complaint about treatment and care provided by the NHS in Scotland.

Northern Ireland

Patient and Client Council (PCC)

The PCC offers free impartial advice and help to people making a complaint about healthcare in Northern Ireland.

For details of how to contact these organisations see 'Sources of support and information' at the end of this pack.

What happens once I have made my complaint locally?

The organisation should acknowledge your complaint and give you a reference number and an estimate of how long the investigations will take and when you can expect a response. You may also be offered the opportunity to discuss your complaint.

NHS/HSC service providers are required to investigate complaints speedily. In **England** and **Scotland** your complaint should be acknowledged within three working days of the service provider receiving the complaint. The timescale involved in investigating complaints can vary depending on the issue, for example the number of people involved. The organisation should contact you to let you know how long it could take and any changes to the timescale and reasons for any delays. In **Scotland** you should receive a response within 20 working days.

Once the investigation is complete you should receive a written response from the service provider. You should also be told you can complain to the Ombudsman if you are not satisfied with the response.

What can I do if I am not happy with the outcome of my complaint?

If you are not happy with the outcome of your complaint you can write another letter explaining why you are still dissatisfied and what you think has not been covered. If this is not appropriate you have the right to take your complaint to the relevant Ombudsman. The Ombudsman is independent of the NHS and government and can investigate complaints that the NHS has not acted properly or has provided a poor service. The Ombudsman cannot deal with complaints about privately funded healthcare.

The Ombudsman will normally only deal with a complaint after you have first tried to resolve it by using an organisation's complaints procedure and have received a formal response from them. The Ombudsman does not have to deal with a complaint and may sometimes decide that it is not appropriate to do so. If the Ombudsman decides not to deal with your complaint you should receive an explanation of why this decision was made.

If the Ombudsman decides to deal with your complaint they will investigate and write a detailed report of their findings. The Ombudsman can make certain recommendations, for example that the organisation apologises, makes changes to put the situation right (if that is possible) and takes action to make sure the same mistake does not happen again.

What is the time limit for complaining to the Ombudsman?

Normally the Ombudsman will not consider complaints more than twelve months after the event you are complaining about happened, or after you became aware there was a problem. If there is a good reason why you were unable to stick to the time limit the Ombudsman may make an exception.

Which Ombudsman should I contact?

England, Scotland, Wales, and Northern Ireland each have their own Ombudsman:

England	Parliamentary and Health Service Ombudsman (PHSO)
Scotland	Scottish Public Services Ombudsman (SPSO)
Wales	Public Services Ombudsman for Wales (PSOfW)
Northern Ireland	Northern Ireland Ombudsman (NI Ombudsman)

For details of how to contact these organisations see 'Sources of support and information' at the end of this pack.

How can I complain about private healthcare?

If you are unhappy with private healthcare you have received you will have to make a complaint directly to the healthcare provider using their formal complaints procedure. However if your treatment was funded by the NHS you can still use the NHS complaints procedure. If you are not happy with the way your complaint is dealt with you can contact the Independent Healthcare Advisory Service (IHAS) for more information. The IHAS represents some independent healthcare providers and has a Complaints Code of Practice they should follow. For contact details see 'Sources of support and information' at the end of this pack.

What can I do if I think I have been discriminated against?

The NHS and other organisations providing healthcare should not discriminate against people who have what the discrimination legislation calls 'protected characteristics'. The term protected characteristics includes disability. Many people with diabetes will not consider themselves to be disabled, however they may still be covered by the definition of disability in the legislation. The Equality Act 2010, applicable in England, Wales and Scotland, and the Disability Discrimination Act 1995, applicable in Northern Ireland, contains the principles that service providers should follow in their treatment of people with disability. Under the legislation service providers must make what the Act calls 'reasonable adjustments', to allow people to use the service.

If you think that a healthcare provider is discriminating against you, you can complain. You can find more information about discrimination on the Equality and Human Rights Commission website or contact the Equality Advisory Support Service helpline for advice and support. For contact details of these organisations see 'Sources of support and information' at the end of this pack.

How can I complain if I think if I think a health professional is unfit to practice?

The NHS/HSC complaints procedure and the Ombudsman listed above cannot consider the fitness to practice of a health professional. If your complaint concerns a serious matter about an individual health professional you can contact the relevant professional or regulatory body. The professional body will investigate your complaint and decide whether to take action against the health professional you are complaining about. For a list of some of the bodies regulating Healthcare Professionals in the UK see 'Sources of support and information' at the end of this pack. Professional bodies will only consider complaints relating to:

- serious or repeated mistakes when carrying out medical procedures or diagnosis
- serious breaches of confidentiality
- criminal offences
- health problems such as mental illness or addiction that may prevent someone practicing safely.

Can I access my medical records?

You may find it helpful to obtain a copy of your medical records when you make a complaint. Under the Data Protection Act 1998 you have the right to get a copy of any information that is held about you, including your health records. Your doctor's surgery holds your health records and the hospital holds records of any treatment you have had there. You can ask your GP, surgery staff or health trust for a copy of your health records. There is usually a charge for this and you can check the cost and fees in advance. It is recommended that you put your request in writing. Access to medical records may be denied if the information is likely to cause mental or physical harm. Guidance on accessing health records, including a sample letter to use can be found on the Information Commissioner's Office website, which can be found in 'Sources of support and information' at the end of this pack.

What other action can I take?

Following devolution, health is devolved from Central Government in Westminster in Wales, Scotland and Northern Ireland. As well as using an organisation's complaints procedure you may want to consider trying to obtain support from your local councillor or elected representative.

The Care Quality Commission (CQC)

The CQC regulate hospitals and practitioners carrying out primary healthcare, including GP's and adult and child social care, by carrying out inspections and publishing the results. Although the CQC does not deal with individual complaints you can report experiences and they can use feedback provided to take action against care providers.

Taking legal action

If you are considering taking legal action about your complaint you will need to get advice from a solicitor who specialises in this area of law. 'Clinical negligence' is the legal term used to describe when a healthcare professional has not provided the proper standard of care, which has caused physical or psychological injury. In order for your claim to be successful you need to prove two things. The first is that the practitioner was negligent and secondly that the negligence directly caused your injury. Clinical negligence can include:

- giving the wrong treatment or not giving the treatment needed
- making the wrong diagnosis
- making an incorrect diagnosis.

Normally you should begin a legal claim within three years from when the incident occurred or when you first realised you had cause to take legal action. There are differences in the time limit in some cases, for example for children and for people who do not have capacity to manage their own affairs. It is advisable to seek specialist advice as soon as possible.

Taking legal action can be lengthy and costly and you should take further advice to check any options available to you to cover legal costs.

For information on how to find a solicitor you can contact the relevant Law Society. They have an online database and helpline to help find a solicitor in your area.

For more information and advice about making a complaint and/or taking legal action you can contact Action against Medical Accidents (AvMA), a charity which helps patients who have suffered medical accidents and clinical negligence.

For details of how to contact these organisations see 'Sources of support and information' at the end of this pack.

Sources of support and information

Patient Advice and Liason Service (PALS) (England Only)

PALS can help resolve concerns or problems when you are using the NHS in England. They can provide information about the NHS complaints procedure and how to get independent help if you decide you want to make a complaint.

More information on PALS can be found on the NHS Choices website, which also has a search tool to find the nearest PALS in your area.

Web: www.nhs.uk/chq/Pages/1082.aspx?CategoryID=68&SubCategoryID=153

You can also ask your GP surgery or hospital for details of your nearest PALS.

NHS Complaints Advocacy (England only)

The NHS Complaints Advocacy Service is a free and independent service that can help you make a complaint about an NHS service. Their website has information on how to make a complaint and the support they can provide. They also have a self-help pack which you can request or download.

Website: www.nhscomplaintsadvocacy.org

Email: nhscomplaints@voiceability.org

Telephone: 0300 330 5454 (helpline)

Citizens' Advice Bureau (CAB)

In Scotland the CAB is tasked with providing help for people making complaints about healthcare through its **Patient Advice and Support Service (PASS) (Scotland only)**. Contact your local CAB for more information.

Web: www.cas.org.uk/patientadvice or contact your local CAB.

In other parts of the UK the CAB may be able to help with this as part of its general advice service. The number of your local CAB will be in the phone book or you can also find your local CAB on their website.

Web: www.citizensadvice.org.uk (England and Wales)

Telephone: 03444 111 444 (England)
03444 77 20 20 (Wales)

Community Health Council (CHC) (Wales only)

Your local CHC can give you free impartial advice and help with making a complaint about healthcare

in Wales. To find details of your local Community Health Council contact the Board of Community Health Councils in Wales.

Web: www.wales.nhs.uk/sitesplus/899

Email: enquiries@waleschc.org.uk

Telephone: 02920 235 558

Patient and Client Council (PCC) (Northern Ireland only)

The PCC offers free impartial advice and help to people making a complaint about healthcare in Northern Ireland.

Web: www.patientclientcouncil.hscni.net

Email: info.pcc@hscni.net

Telephone: 0800 917 0222

Other Help

The NHS should be able to provide information on:

- accessing an interpreter
- information in other languages
- help if you have a hearing or visual impairment
- information about local advocacy services.

Parliamentary and Health Service Ombudsman (PHSO)

The PHSO is the health ombudsman for England. You can make a complaint online or by completing and returning the paper form.

Address: The Parliamentary and Health Service Ombudsman, Millbank Tower, Millbank, London SW1P 4QP.

Web: www.ombudsman.org.uk

Telephone: 0345 015 4033 (complaints helpline)

Scottish Public Services Ombudsman (SPSO)

The SPSO is the health ombudsman for Scotland. To make a complaint to the SPSO you must fill in a complaint form. You can do this online or you can order a paper form by phone.

Address: Freepost SPSO (this is all you need to put as the address).

Web: www.spsso.org.uk

Email: using online form at <https://www.spsso.org.uk/complain/form/start>

Telephone: 0800 377 7330 (advice line)

Public Services Ombudsman for Wales (PSOfW)

The PSOfW is the health ombudsman for Wales.

Address: Public Services Ombudsman for Wales, 1 Ffordd yr Hen Gae, Pencoed CF35 5LJ.

Web: www.ombudsman-wales.org.uk

Email: online complaint form at <http://www.ombudsman-wales.org.uk/en/Making%20a%20complaint.aspx> online contact form at <http://www.ombudsman-wales.org.uk/en/Contact%20us.aspx>

Telephone: 0300 790 0203

Northern Ireland Ombudsman

Address: Progressive House, 33 Wellington Place, Belfast, BT1 6HN, Freepost NIPSO.

Web: nipso.org.uk/nipso

Email: nipso@nipso.org.uk

Telephone: 02890 233821 or 0800 34 34 24 (freephone)

General Medical Council (GMC)

The professional body regulating doctors in the UK.

Web: www.gmc-uk.org

Make a complaint online at www.gmc-uk.org/concerns/23339.asp

Nursing and Midwifery Council

The professional body regulating nurses and midwives in the UK.

Web: www.nmc-uk.org

Email: fitness.to.practise@nmc-uk.org

Telephone: 020 7637 7181 (general enquiries and fitness to practice helpline)

The General Pharmaceutical Council

The professional body regulating pharmacists in the UK.

Web: www.pharmacyregulation.org

Email: using online form at www.pharmacyregulation.org/content/our-role

Telephone: 020 3713 8000 (general enquiries)

General Dental Council

The professional body regulating dentists in the UK.

Web: www.gdc-uk.org

Online complaint form at <http://contactus.gdc-uk.org/Enquiry/NhsComplaint/NhsPatients>

Telephone: 020 7167 6000

Care Quality Commission (CQC)

The CQC works to make sure that hospitals, care homes, dental and GP surgeries, and all other care services in England provide people with safe, effective, compassionate and high-quality care, and encourage them to make improvements. They inspect services and publish the results on their website to help people make better decisions about the care they receive.

Web: www.cqc.org.uk

Email: use their online form <http://www.cqc.org.uk/content/contact-us-using-our-online-form>

Telephone: 03000 61 61 61

Information Commissioner's Office (ICO)

The ICO provides advice on accessing information held about you by a public body.

Web: <https://ico.org.uk>

Email: casework@ico.org.uk

Telephone: 0303 123 1113 or 01625 545745

Law Society

The Law Society regulates and represents solicitors, and has an online directory which can be used to find a solicitor. The Law Society does not give legal advice to members of the public.

England and Wales

Web: www.lawsociety.org.uk/for-the-public

Email: findasolicitor@lawsociety.org.uk

Telephone: 020 7320 5650

Scotland

Web: www.lawscot.org.uk/forthepublic

Email: lawscot@lawscot.org.uk

Telephone: 0131 226 7411

Northern Ireland

Web: www.lawsoc-ni.org

Email: using online form at www.lawsoc-ni.org/contact.aspx

Civil Legal Advice (CLA)

You can contact CLA to see if you're eligible for legal aid in England and Wales. Those eligible can receive free and confidential legal advice in England and Wales.

Web: www.gov.uk/civil-legal-advice

Telephone: 0845 345 4345

Action against Medical Accidents (AvMA)

AvMA can provide advice on rights, medical information or explanations, help in getting the issues investigated, assessment of potential for compensation, referral on to a solicitor.

Web: www.avma.org.uk

Telephone: 0845 123 2352

The Patients Association

The Patients Association advocates for better access to accurate and independent information for patients and the public; equal access to high quality healthcare for patients; and the right for patients to be involved in all aspects of decision making regarding their healthcare. They have a helpline for concerns and queries about any aspect of the Healthcare system.

Web: www.patients-association.com

Email: helpline@patients-association.com

Telephone: 0845 608 4455