



Making a complaint about the NHS

Step-by-Step Guide

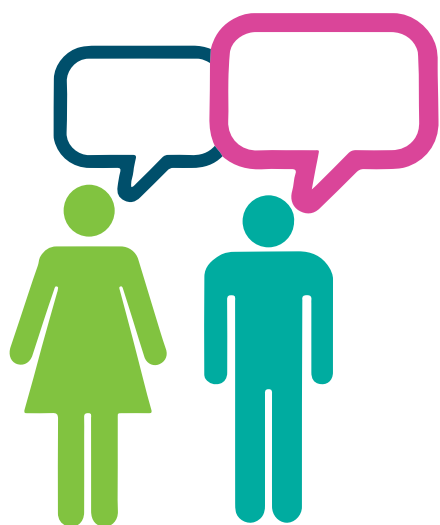


Important Information

Please read this section before the rest of this guide to make sure you take the most appropriate action for you.

Are you concerned about something that is happening now?

The aim of the NHS complaints procedure is to help you get things put right as quickly as possible so that you are able to continue with your healthcare without unnecessary worry or concern.



The complaints procedure says that if your concern is about current care or treatment, your best option may well be to resolve the issue informally using one of the following routes:

- Speak to a member of staff directly involved with your treatment, or their manager. This is often the quickest way to put things right and stop them getting worse
- If your complaint concerns hospital treatment, speak to the Patient Advice and Liaison Service (PALS). PALS provides information, advice and support to patients, families and carers and can help you get answers to your questions quickly. Ask the person who is treating you for the contact details of PALS

Do you need to make a formal complaint?

The formal 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
- The issues involved concern more than one organisation
- You want to raise complex issues

This booklet will tell you what the NHS complaints procedure does and doesn't cover and will help you understand how it works.

Healthwatch Shropshire's Independent Health Complaints Advocacy Service (IHCAS) can support you at any stage of the NHS complaints process.

Contents

Your guide to Making a Complaint

	Page
1. About this booklet	3
2. What is covered by the NHS complaints procedure?	3
3. Who can complain?	4
4. The NHS complaints procedure—Your rights	5
5. Using the NHS complaints procedure	6
Identify the problem	6
What is your desired outcome?	6
Making a ‘formal complaint’	6
Verbal complaints	7
Written complaints	7
Are there time limits for making a complaint?	7
6. What to expect of the complaints procedure	8
7. Who to complain to	10
8. What if I am not happy with the response to my complaint?	12
9. What happens if I decide to take my case to the Health Service Ombudsman?	13
10. Other features of the NHS complaint procedure	14
Local Resolution Meeting	14
Where will the meeting take place?	14
Who will be at the meeting?	14
At the meeting	15
Useful tips when attending meetings	15
Mediation or conciliation	15
Accessing medical records	16
Applying for your records and costs	17
Accuracy	17
11. What to do about matters not covered by the NHS complaints procedure	18
12. What is Health Complaints Advocacy?	19

1. About this booklet

Most people are happy with the care they receive from the NHS, but sometimes things don't go as expected.



**Have
your
say**

Everyone who uses the NHS has the right to complain if they feel that something has gone wrong, if they have been refused a service, or they feel that they have not received an acceptable level of service.

This booklet aims to explain the NHS complaints procedure and give you some tips on how to raise your concerns / make a formal complaint about an NHS service or organisation by yourself.

2. What is covered by the NHS complaints procedure?



The NHS complaints procedure applies to all services provided or funded by the NHS including GPs, hospitals, pharmacies, opticians, dentists and ambulance services.

You can also use the NHS complaints procedure if your complaint covers **both** health and social care or to complain about NHS funded nursing home care or an NHS funded home based care package.

You **cannot** use the NHS complaints system for complaints that are about:

- Legal issues or claims for compensation
- Personnel matters, such as getting staff disciplined
- Social care alone or other services provided by the council
- Contractual matters and consultations about service changes
- Privately funded health, nursing home or home based care

3. Who can complain?

You can complain about your own care and treatment or a service failure that has affected you.

You can also complain on behalf of:

- Someone who has died
- A child
- Someone who cannot complain for themselves because of
 - Physical incapacity, or
 - Lack of capacity within the meaning of the **Mental Capacity Act 2005**
- Someone who has asked you to do so provided they give their written consent



If you wish to complain on behalf of a child, the organisation can only consider the complaint if they are satisfied that there are reasonable grounds for you to make the complaint instead of the child. If they are not satisfied, the organisation must notify you in writing, and tell you the reason for their decision.

The organisation also has to be satisfied that the complaint is in the **best interests** of the child. Similarly, the organisation has to be sure that complaints made on behalf of people who lack capacity are in their best interests. If they decide not to investigate the complaint they must let you know and the reasons why in writing.

4. The NHS complaints procedure - Your rights

The NHS Constitution says you have:

- **The right** to have your complaint acknowledged by the service you are complaining about within three working days, and have it properly investigated
- **The right** to discuss how the complaint will be handled, and to be told how long the investigation will take
- **The right** to be informed of progress and to know the outcome of any investigation, including any conclusions and confirmation that any action needed as a result of the complaint has been taken or will be taken
- **The right** to take your complaint to the independent Parliamentary and Health Service Ombudsman (PHSO) if you are not satisfied with the way the NHS has dealt with your complaint



The full NHS Constitution for England can be viewed at www.gov.uk

Six principles of good complaints handling

The Parliamentary and Health Service Ombudsman (PHSO) has identified six principles of good complaints handling which organisations should follow.

The six principles are:

- Getting it right
- Being customer focused
- Being open and accountable
- Acting fairly and proportionately
- Putting things right
- Seeking continuous improvement

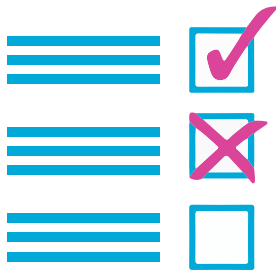


The Ombudsman will use these principles when considering your case. For more information about these principles you can go to www.ombudsman.org.uk

5. Using the NHS complaints procedure

Identify the problem

Before you start your complaint, it is important to be clear about what it is you are unhappy about with the NHS care and services that you have received, e.g. treatment, care, attitude of staff, lack of information, failure to diagnose, poor handling of your complaint.



From the beginning of the process you need to be clear on what the issue or issues are that you are complaining about. Write them down and keep them clear and concise. This will help you when writing letters and sitting in meetings explaining your concerns. It will also help the NHS organisations / services to deal with your complaints correctly.

What is your desired outcome?

This is something you need to have clear in your mind before you start the actual complaints procedure.

Are you content with an apology, an explanation, or do you want a change to the system? Whatever action you're seeking, make this clear. This will help when organisations are dealing with your issue.

Please note that the NHS complaints procedure does not cover compensation.

Making a 'formal complaint'



A formal complaint can be made

- In person
- Over the telephone
- By email
- By post

It is important to state that it is a **formal complaint**

Verbal complaints



If you make the complaint in person or on the phone, the member of staff who you speak to must make a written record of the complaint and give you a copy so that you can check it includes all the points you have raised.

Take the name of the person who you spoke to if phoning or complaining in person.

If you do make your complaint verbally it is recommended that you confirm your complaint in writing if possible and keep a copy for yourself.

Written complaints

A letter gives you the chance to write out clearly what your concerns are and what you would want to see at the end of the process so there is no confusion.

If you would like further information on writing a letter of complaint please refer to the Healthwatch Shropshire 'Factsheet - Writing a Complaint Letter'. If you need help to write a complaint letter a Complaints Advocate at Healthwatch Shropshire would be available to support you.



Tips:

- Always keep a copy of your complaint letter to refer to later
- Keep a log / record of all contact regarding your complaint; have a pen and paper ready and note the date you send the letter, keep a record of any calls

Are there time limits for making a complaint?

It is best to make your complaint as soon as possible, as memories will be fresher and it will be easier to investigate the facts. It is NHS policy that a complaint needs to be made within twelve months of the incident.

The NHS organisation / service may investigate the issue beyond the timescale if they feel that there is a legitimate reason for the delay (for example if you are unwell or have been bereaved).

6. What to expect of the complaints procedure



The person in charge of handling complaints for the service you want to complain about should be able to explain exactly how the system works, but generally you should expect the following:

- Your complaint should be acknowledged verbally or in writing within **three working days**
- The organisation should offer to discuss your complaint and agree a plan to resolve your concerns with you. They should tell you how your complaint will be investigated and agree with you a **timescale for resolving your issues** (this is usually around 28 days). They should also tell you how they will keep you informed of progress
- They should contact you if there is going to be a **delay** or if they need to change the timescale and agree an amended timescale with you. The 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 organisations are involved in your complaint
- There should be an **investigation** into the issues you have raised
- They should help you to understand the **NHS complaints procedure** or offer information on where to obtain such assistance, for example your local IHCAS provider
- Once the investigation is complete the organisation should either write to you to inform you of their findings, or offer you a meeting to discuss them. This is sometimes called a **local resolution meeting**. You can take a friend, relative or a Complaints Advocate with you if you wish. When the meeting is over, they should write to you with their findings and any agreement or action plan you have agreed.

The complaint response letter

The organisation should provide a complaint response letter that includes:

- A summary of your complaint
- What the investigation found
- What to do if you are still unhappy with the answers given

Depending on what the investigation found, the letter may also contain:

- An apology, if appropriate
- An explanation of what action will be taken as a result of your complaint, who is responsible for this action and when it will be completed
- What steps have been taken to prevent the same thing happening to other people

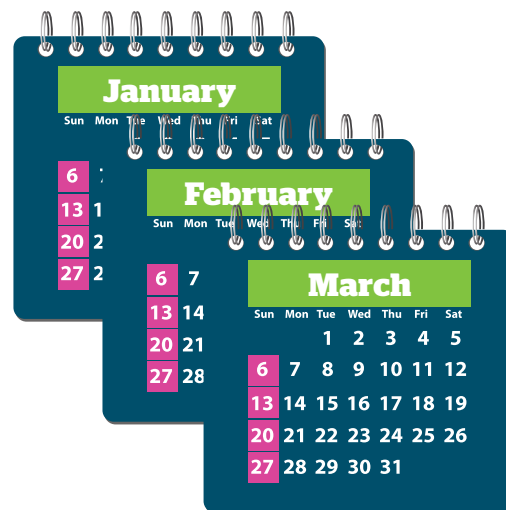
The letter should be:

- Balanced, factual and impartial
- Clear and easy to understand

Timescale for the response

If you haven't received this letter within the **timescale** agreed in the plan you may like to ring or write to check when you can expect to receive it. Organisations are encouraged to review complaints that have lasted more than six months to ensure that everything is being done to resolve them.

If you haven't received a response letter within **six months** of your original complaint and the organisation has not agreed a longer time frame with you, you may wish to refer your complaint to the Parliamentary and Health Service Ombudsman.



7. Who to complain to

When making a complaint, it is important that it goes to the right organisation.

You can choose to complain to either of the following:

The healthcare provider

It is normally a good idea to go direct to the organisation where you received the NHS service, for example your hospital, GP surgery, dental surgery or pharmacist.



The commissioner

If you do not feel comfortable complaining directly to the healthcare provider you can complain to the commissioner of the service (the organisation that pays for the service)

- If your complaint is about primary care services such as GPs, dentists, opticians or pharmacy services, you can contact **NHS England**
- If your complaint is about services such as hospital care, mental health services, out-of-hours services and community services such as district nursing, you can contact the **Clinical Commissioning Group (CCG)**
- If your complaint is about public health organisations (those who provide services which prevent disease, promote health and prolong life), you can contact your **local council**

Please note: If you have already complained to your healthcare provider, the commissioner will not be able to re-investigate the same concerns. If you are unhappy with the outcome of your complaint, you may wish to go to the next stage of the NHS complaints procedure and take your complaint to the Parliamentary and Health Service Ombudsman.

Who should I address my complaint to?

All organisations are set up differently and it can be difficult to identify who you should address your complaint to.

The healthcare provider

If complaining directly to the NHS organisation and service you can contact the person in charge of complaints. In most cases:

- If your complaint is about an NHS Trust such as a hospital, a mental health service provider, a community services provider or ambulance service you will need to contact the **Complaints Manager** or the **Chief Executive**
- If your complaint is about a GP surgery/practice, dentist, pharmacist, optician, you will need to contact the **Practice Manager** or **Complaints Manager** of that particular NHS organisation

The commissioner

- If complaining to NHS England contact the **Complaints Team** that covers your area
- If complaining to the local Clinical Commissioning Group (CCG) you can contact the **Patient Services Team** at your local CCG who can advise you about making a complaint

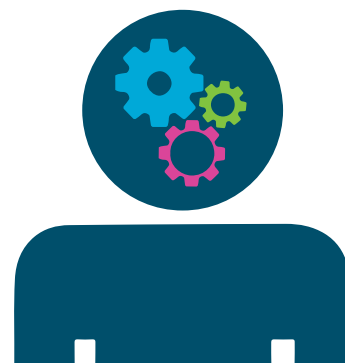
Please note: If you choose to make a complaint directly to the organisation where you received the service you are complaining about and you are not satisfied with their response you cannot then raise the same issue with NHS England or the local commissioner but must go directly to the Parliamentary and Health Service Ombudsman.

For the most up-to-date contact details for these services please see Healthwatch Shropshire's "Fact Sheet: Where to raise formal NHS complaints in Shropshire"

8. What if I am not happy with the response to my complaint?

If you are not satisfied with the response to your complaint it is important to be clear about what you are not satisfied with. It might be helpful to go through and think about:

- The letters you have sent and received
- Notes of meetings
- The conciliation or mediation process if applicable
- Whether the plan you agreed has been followed
- Whether there are still areas of your complaint that remain unanswered
- Whether you feel that the evidence you presented was not properly considered
- What more could have been done to achieve the outcome you wanted
- Whether the complaint has been handled following the Parliamentary and Health Service Ombudsman's six principles of good complaints handling



If after considering the above, you still feel there are unanswered questions that concern you, you could:

- Write another letter explaining what you think has not been covered
- Call the person handling your complaint and explain why you are still not satisfied with the resolution
- Request a meeting to discuss your outstanding concerns

The NHS organisation / service may choose to investigate your concerns further. At this point they will discuss a way forward and agree timescales with you. If the NHS organisation / service feel that they have done everything they can to resolve your issue, they will inform you in writing. This would signal the end of local resolution. If you are not happy with the way they have dealt with your complaint, you have the right to ask the **Parliamentary and Health Service Ombudsman (PHSO)** to investigate.



9. What happens if I decide to take my complaint to the Ombudsman?

The Parliamentary and Health Service Ombudsman (PHSO):

- Is a free and independent service
- Will look at every complaint they receive
- Will only accept a case if they feel that every effort has been made to resolve the matter locally

The Ombudsman will not usually investigate a complaint:

- If the complaint has not been through the local resolution stage
- If the PHSO feels that the NHS organisation / service has done everything possible to address your complaint and put things right

The Ombudsman will not investigate the complaint:

- Just because you disagree with the outcome of the local resolution
- Without evidence to prove that your complaint has not been dealt with correctly

If the Ombudsman decides not to investigate your case, you will be informed. The Ombudsman may decide not to investigate the case but may ask the NHS organisation / service to take action which they think may resolve your complaint more quickly without the need for an Ombudsman's investigation. This is called an 'intervention'.

The Ombudsman's investigation

If the Ombudsman decides to investigate the case there will be a thorough investigation with a detailed report. In the report the Ombudsman may make recommendations to the NHS organisation to make things right. The investigation can be time consuming but the Ombudsman aims to complete their investigation within **12 months**.

The Ombudsman's decision

The Ombudsman's decision 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.

For the most up-to-date contact details for the Parliamentary and Health Service Ombudsman please contact Healthwatch Shropshire or ask for a copy of the "Fact Sheet: The Parliamentary and Health Service Ombudsman (PHSO)"

10. Other features of the NHS complaints procedure

You can take a family member or friend with you to the meeting for support. You can also be accompanied by a Complaints Advocate. You do not have to go to a meeting if you don't want to, but it is usually helpful to do so.

Local Resolution Meeting

This is the name often given to the meeting you are invited to so you can discuss your complaint. The meeting can be called **before** the organisation begins their investigation so they fully understand the details of your complaint and what you are asking for. Meetings can also be called **after** the investigation is completed so they can talk to you about their conclusions and agree with you what actions they are planning to take.



Where will the meeting take place?

Meetings are usually held at the organisation which the complaint is about, for example at the hospital or GP surgery but the venue should be suitable for you and you can ask if it is possible to meet somewhere else. If you are being supported by a Complaints Advocate they can support you to find an alternative venue.

Who will be at the meeting?

Sometimes the staff who have been complained about are present at meetings and sometimes their supervisor or head of department is there instead. If you would like specific members of staff to be present at the meeting you can make this request before the meeting takes place. You can also ask that a particular member of staff is not present.

If you would like a IHCAS Complaints Advocate to go with you to a meeting please contact Healthwatch Shropshire on 01743 237 884 or email enquiries@healthwatchshropshire.co.uk

At the meeting:

- There should be someone who is responsible for managing the meeting (the Chair) and their role is to make sure that all issues are discussed. This is often the person in the organisation who is responsible for investigating the complaint, e.g. the Practice Manager or the Complaint Manager
- Everyone should be introduced
- A formal record of the meeting should be kept—either notes, minutes or a recording. You should be asked your permission if the meeting is going to be recorded. You should be given a copy of the recording or meeting notes following the meeting. If you want to record the meeting you must notify the organiser before hand
- You can ask for a break during the meeting if you need one
- You should be informed of any actions agreed at the meeting and they should agree with you when you will either meet or hear from them next

Useful tips when attending meetings:

- If you are recovering from an illness tell the person organising the meeting in advance if you think you might experience any difficulties, e.g. with length of meeting, time of day, venue etc.
- Do not agree with anything at the meeting that you are unsure of or have reservations about

Mediation or conciliation

Some organisations use conciliation or mediation services. The conciliator / mediator is a neutral and independent person who can arrange a meeting with you and those involved in the investigation of your complaint (either separately or together) so you can all express your views and try to resolve your differences. A conciliator will only become involved if everyone affected agrees. The conciliation process is confidential and should be explained to you so that you can decide if it is something you wish to participate in.

Accessing medical records

When you are making a complaint it may be useful to look at your medical records first.

Patient records include:

- GP and other NHS staff records of the treatment they have given
- Details of visits, treatments, medication, tests and their results, diagnosis and referrals



Under the Data Protection Act 1998, you have a right to see your records, unless:

- Your doctor thinks that to do so would seriously harm you or another person.

Note: This refusal can apply to part of your records and there is no obligation to inform you of such a partial refusal. It is worth asking if any part of your records has not been made available.

- Providing them would involve ‘disproportionate effort’ on the part of a Trust or GP Practice.

Note: Disproportionate effort is not defined, but the Data Protection Information Commissioner has warned against abusing this clause to block your access to your records.

- Providing them would disclose information relating to another person who has not consented to the disclosure.

There are different ways of viewing your records and, depending on what you require and how your records are stored, there may be a charge.

Applying for your records and costs

- You have to apply to see your records. Some GP Practices and Trusts have a **form** specially designed for this that you are asked to complete. Most trusts also have a specially appointed person responsible for dealing with such requests.
- Trusts and GP Practices are allowed to charge you for **seeing your records** if they have not been added to within the last 40 days.
- Trusts and GP Practices also have to explain to you anything in the records that is not easy to read, or which uses **technical language** that you do not understand.
- If you want **copies of the records**, Trusts or GP Practices can charge you for the cost of postage and photocopying, there is a maximum amount you can be charged. It is a good idea to get copies if you need to use something in your records as evidence in your complaint.
- If you are applying to obtain **someone else's records**, you must have the patient's authorisation in writing. This includes parents applying to see a child's records if the child is able to understand. Where a patient is unable to give permission because of incapacity or illness, you may need to seek legal advice and a court authorisation.
- In the case of a **deceased patient**, disclosure is governed by the Access to Health Records Act 1990 and records can only be obtained by a Personal Representative. A Representative is usually an Executor, or someone making a claim arising from the death, unless the deceased specifically requested in the records that they did not want that person to have access to their records.

Accuracy

If you think your records are inaccurate, you can ask for a correction to be inserted. You are entitled to a copy of the changed record free of charge. If the Trust or doctor disagrees with the changes you want to make, you can ask for a note recording your disagreement to be attached to the records.

Any complaint about this can be made to the **Information Commissioners Office**.

Information Commissioner's Office

Helpline: 0303 123 1113 Website: <https://ico.org.uk/concerns/>

11. What to do about matters not covered by the NHS complaints procedure?

Complaints for clinical negligence or other legal claim

If you are seeking compensation you will need to get legal advice.

- Speak to a solicitor who specialises in medical or clinical negligence
- There are time limits for making a legal claim and it is best to contact a solicitor as soon as possible

For help finding a solicitor you can speak to your local Citizen's Advice Service.

Disciplinary action against a member of staff

The NHS complaints procedure cannot be used for personnel matters such as obtaining disciplinary action against a member of NHS staff. There is a separate procedure for that.


The Complaints Manager will be able to tell you about local procedures. It might also be helpful to contact the relevant professional regulatory body.

Complaining about social care or council services

You will need to contact your local authority or visit their website to find out about their complaints procedure.

Contractual or commercial matters

The complaints process cannot be used in contractual or commercial disputes. You may wish to seek legal advice.



For more information about what to do in these circumstances please contact Healthwatch Shropshire on 01743 237 884 or email enquiries@healthwatchshropshire.co.uk

What is Health Complaints Advocacy?

A Health Complaints Advocate can:

- ✓ **Give you information** so you understand your options and choices (e.g. information about the NHS Complaints process)
- ✓ **Listen to you** and help you to say what you think, raise your concerns and say what you want to happen
- ✓ **Provide practical help** including helping you to draft your formal letter of complaint or attending meetings with you
- ✓ **Explain responses** (including letters and emails) so you understand what is happening
- ✓ **Make sure professionals dealing with your complaint are treating you fairly and in a dignified manner**

Healthwatch Shropshire is a charity and completely independent of the NHS. Our aim is to guide and support you through this sometimes complicated and emotionally challenging process.



A Health Complaints Advocate:

- X **Cannot** deal with a complaint on your behalf—you need to be at the centre of the process, it is *your* complaint
- X **Cannot** write your formal letter of complaint without your input—it must be agreed and signed by *you*
- X **Cannot** get involved in decisions about your treatment or make an NHS service treat you—we can support *you* through the NHS complaints process
- X **Cannot** make the NHS service provider take any action—we can support you to say what *you* would like to happen
- X **Cannot** go to meetings without you to discuss your complaint – we can go with you to support *you*
- X **Cannot** give you legal or medical advice

healthwatch
Shropshire
Independent Health Complaints
Advocacy Service

Contact us

Please get in touch and tell us about your experiences of health and social care in Shropshire.

01743 237884

enquiries@healthwatchshropshire.co.uk

freepost HEALTHWATCH SHROPSHIRE

 **Follow us on Twitter @HWSHropshire**

 **Search on Facebook for: HealthwatchShropshire**

www.healthwatchshropshire.co.uk