

Your guide to Independent Health Complaints Advocacy

Table of Contents

01 Our Advocacy Service *Find out how an advocate can support you*

02 About the process *What's involved and what you can expect from the process*

03 What's covered? *What is and is not covered by the complaints process*

05 Step 1: Getting Started *Discussing your concerns and what you would like to achieve*

06 Step 2: Your concerns *How to raise your concerns and where to send your complaint*

08 Step 3: Local resolution *The quickest way to find a resolution*

10 Step 4: Unsatisfactory outcomes *What to do if you're still unhappy with the outcome*

11 Step 5: The Parliamentary & Health Service Ombudsman

13 Accessing Medical Records *How to access medical records for yourself and others*

14 Asking for an Advocate *Contacting us for free and confidential support*

Our Advocacy Service

This information pack can help you to prepare a complaint about NHS care, treatment, or services, explain the process and how an advocate could support you. If you live in the **London Borough of Hammersmith & Fulham**, or **Medway**, Libra Partnership can put you in touch with an advocate who can guide you through every step of the process.

The NHS Complaints Advocacy service is:

- available to Hammersmith & Fulham and Medway residents, free of charge
- entirely independent from the NHS
- confidential; we won't share anything you tell us unless you would like us to, and unless you disclose anything that might cause harm to you or others

Our advocates will make sure you are aware of all the different options and information available to you throughout the process. We'll also help you decide on the desired outcome of your complaint.

Your advocate **can**:

- be available to speak with as someone completely independent from the NHS
- show you the options available to you
- prepare you for meetings, if required
- help you with writing letters
- contact and speak with third parties, if required
- help you decide whether you're satisfied with the response you've received from the NHS

Your advocate **cannot**:

- give you medical advice
- give legal advice or support with legal action
- investigate complaints
- help you with complaints that are not covered by the NHS Complaints Regulations

Your advocate will be respectful of any decisions you make. An advocate will never make a decision for you or force you to take any particular course of action.

We're here to listen to your experiences and talk you through the process.

**Hammersmith & Fulham
0333 305 1329**

Contact us via our free phone numbers, on referrals@librapartnership.co.uk, or use our online [referral form](#).

**Medway
01622 200 806**

The Process

Who can raise concerns?

You are able to raise a complaint about your own care, treatment, or service you are unhappy with. You are also able to make a complaint on behalf of:

- someone who has passed away
- a child
- someone who is unable to complain themselves because:
 1. they lack capacity under the Mental Capacity Act 2005
 2. they have a physical incapacity to do so
 3. they have given consent to complain on their behalf

When raising a concern on behalf of someone else, the organisation you are complaining about must be satisfied that there are reasonable grounds for you to do so, rather than the person themselves. They must also be satisfied that the complaint is in the persons best interest. If they choose not to investigate, they will let you know in writing as to why.

Concerned about something happening now?

If you have an issue with your current care, treatment, or service, the quickest way to resolve the issue is to raise your concerns directly with the staff involved. This will give them the chance to act immediately and put things right.

If you feel uncomfortable about this, or you feel you are unable to, you can also speak to the Patient Advice and Liaison Service (PALS). PALS is a service delivered by the NHS staff to provide information, advice and support to patients. They will be able to advise you on the best course of action. For more information, please contact your local hospital trust.

If your issue has then not been resolved, you can use our NHS complaints advocacy service to help raise your concerns.

What to expect from the process?

It is important to us that you feel confident when raising a concern. Your advocate will be there to help you through every step, giving you advice before you officially raise your concerns, right through to the conclusion of your complaint.

Throughout the process you should expect that the NHS will:

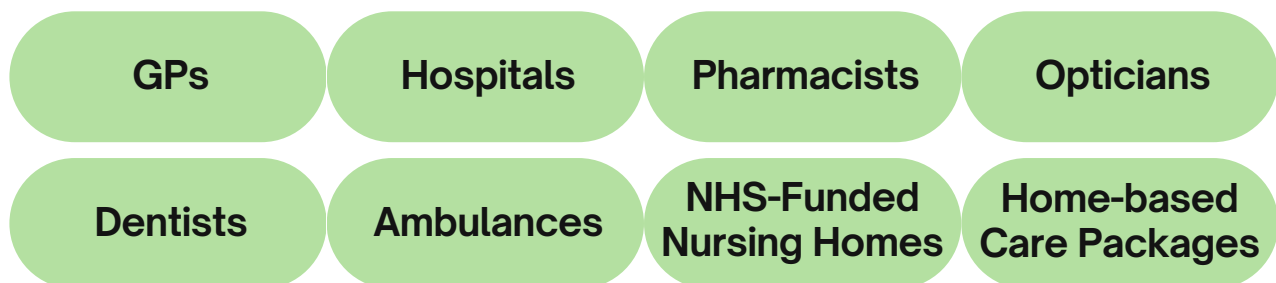
- investigate your concerns properly and deal with them efficiently
- inform you of the outcome of any investigations surrounding your complaint

**For more information on your rights, view the NHS constitution at:
www.gov.uk/government/publications/the-nhs-constitution-for-england**

What IS covered by the NHS complaints process?

You can raise your concerns about any service provided or funded by the NHS. You can also use this process if your concerns cover both health and social care, including NHS funded nursing homes, or a home-based care package funded by the NHS.

This includes:



What IS NOT covered by the NHS complaints process?

You cannot use the NHS complaints process to raise concerns about:

- any service that is not funded by the NHS, i.e., private healthcare
- having staff disciplined
- legal issues or compensation claims
- nursing or care home complaints (unless NHS funded)
- public health services run by the local authority

If you have a complaint that relates to the above, there are other routes you can use. Your advocate can explain these processes to you and give you more information on who may be best placed to help.

Concerns about a nursing or care home

If the nursing or care home is paid for privately, then you must raise your complaint with them directly. Make contact with the home to find out more information about their complaints process. The NHS complaints service is unable to support you to make a complaint about a privately funded home.

Private healthcare complaints

If you have paid for private treatment or used medical insurance for your care, then you are not able to use the NHS complaints process to raise your complaint. The private healthcare service you used can supply you with details of their complaints process.

Concerns about a public health service

If your complaint is about a public health service run by a local authority, then your concerns should be made directly to the local authority who fund the service. The NHS complaints process cannot support with this.

Claims for financial compensation

Financial compensation claims for clinical negligence are not covered by the NHS complaints service process and can only be made through legal action. This process will involve discussion with a solicitor that specialises in clinical and medical negligence. It is recommended you contact a solicitor within three years of the incident.

Disciplinary action against NHS staff

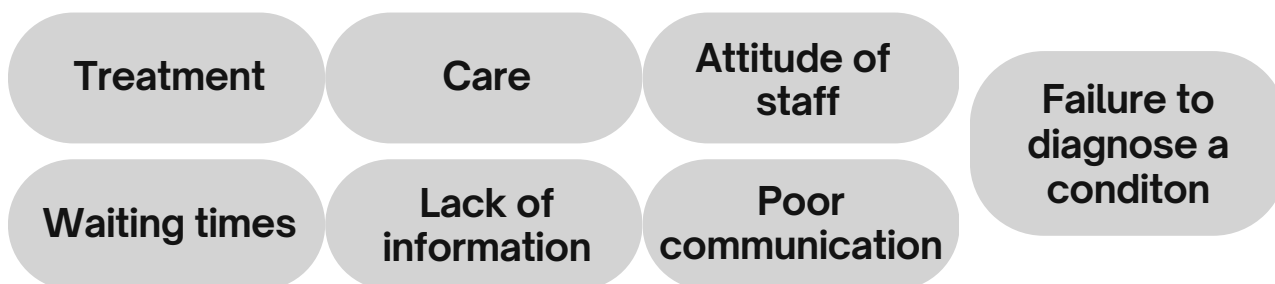
Disciplinary action against an NHS member of staff will not occur as a result of the complaints process; however, it *may* as a result of the investigation and procedures put in place as a consequence.

Step 1: Getting started

Before starting the complaints process, it is important that you are clear what your concerns are and what you would like to achieve.

What are your concerns?

These concerns can be about any aspect of the care, treatment and services you received from the NHS. These may include:



This process can also be used when:

- the situation raises serious questions about the standard of care
- the issue involved concerns more than one organisation
- you feel your concerns have not been fully resolved

What would you like to achieve?

Before you raise your concerns, you must decide what outcomes you would like. It is important your desired outcomes are specific and realistic, as this will mean your issues are more likely to be dealt with efficiently.

Common outcomes from the NHS include:

- an explanation about what happened
- an apology from the NHS service provider
- a noticeable change to the NHS service so the problem will not happen again
- better communication between NHS staff and patients

Remember, there are limits to what can be achieved. Your outcomes can't include financial compensation and disciplinary action against NHS staff.

Your advocate can talk you through what outcomes you can expect and support you through the whole process.

Step 2: How to raise your concerns

NHS organisations prefer to have your complaints in writing; however, you may prefer to raise your concern in the following ways:

 in person  by email
 by phone  in a letter

If you choose to raise your concerns in person or over the phone, the person handling your complaint should make a written record. This record will include details of your concerns, and a copy should be given to you.

Your advocate can help you write any letters needed.

Who should you send your complaint to?

You can choose who you would like to send your complaint to within the NHS service provider. Your options will vary depending on the service. You can speak directly with the NHS service provider to ask them about their complaints procedure.

Concerns about an NHS trust

If you want to complain about an NHS trust, such as a hospital, a mental health service provider, a community services provider or ambulance service, then you should send your concerns to the chief executive of the appropriate NHS trust.

Another option is to address your complaint to the Clinical Commissioning Group (CCG) for the NHS service you're complaining about. **Be aware that you can't ask both the NHS trust and the CCG to investigate your concerns.**

Concerns about a GP, dentist, optician, or pharmacist

If you would like to raise a concern about a GP, dentist, optician or pharmacist, you should contact the service directly or speak to the manager of the service.

You can also choose to raise your concerns with NHS England. They will contact the NHS service provider and investigate your concerns. **You can't ask both the NHS service provider and NHS England to investigate your concerns.**



Post a letter detailing your concerns to NHS England PO Box 16738, Redditch, B97 9PT



Send an email to england.contactus@nhs.net with the subject line 'For the attention of the complaints manager'



Phone NHS England on 0300 311 22 33 (Monday to Friday, 8am to 6pm, excluding bank holidays)

If you choose to raise your concerns with NHS England:

- you must provide as much information as possible when raising your concerns
- you must include your name and a clear explanation of your concerns

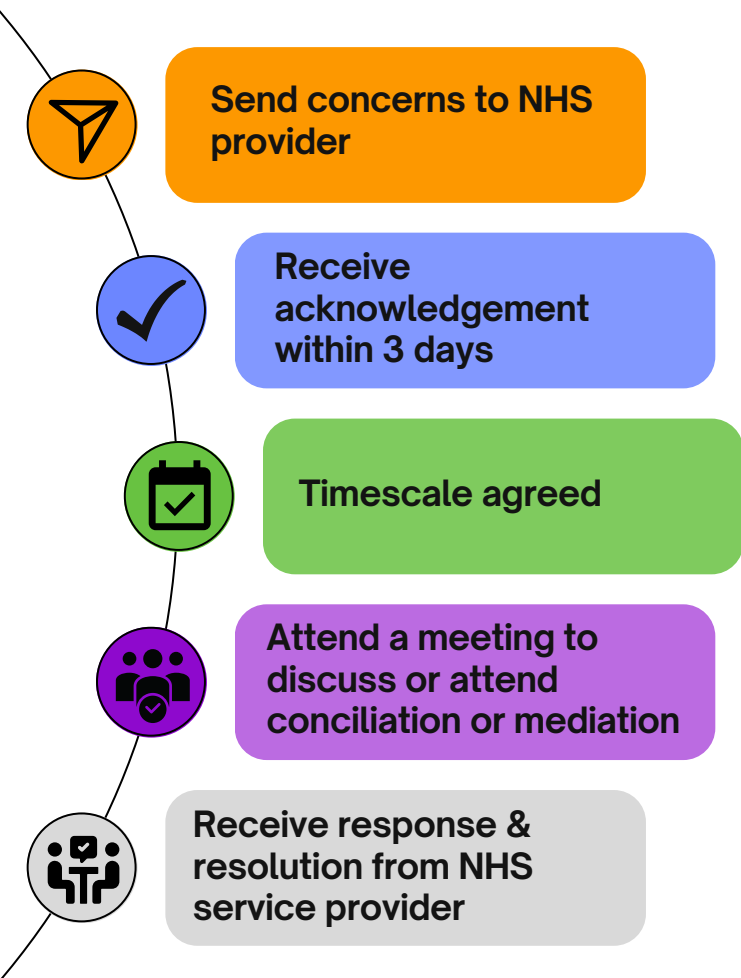
Concerns about NHS 111 and out-of-hours services

If your concerns are about NHS 111 and out-of-hours services, you can send your concerns to the Clinical Commissioning Group (CCG).

Details of your local CCG can be found from your local authority, local Healthwatch, or by going to www.nhs.uk/servicedirectories/pages/ccglisting.aspx

If you are unsure who you should raise your concerns with, you can contact the NHS complaints advocacy service to discuss your options.

Step 3: Local resolution



In most cases, the NHS complaints service will focus on resolving your concerns locally. This will usually involve the NHS service provider responding to you directly to solve the problem. They should respond to you promptly and sensitively.

Why use local resolution?

Local resolution allows the NHS service provider in question to speak with you directly to fix the problem as soon as possible. This gives you the opportunity to speak with the NHS service provider to explain your concerns and clarify what outcomes you would like. It's important as it allows the service provider to resolve your concerns quickly and use your experiences to improve local services.

Make sure you raise all your concerns at this point, as any new issues cannot later be included as part of the complaint.

How long will it take?

Some concerns can be resolved immediately, and you will receive a response quickly from the NHS provider. Others may take some time. If this is the case, the NHS provider will acknowledge your concerns either verbally or in writing within three working days.

In most cases, the NHS will:

- contact you to talk about your concerns and what they can do to resolve them. *They should agree to a timescale with you for resolving the issues, making sure they keep you informed of all progress along the way. The time it takes to resolve your concerns can be influenced by many things; for example, the number of staff involved, how easy it is to access your medical records or the number of other organisations that are involved in your complaint.*
- contact you if they need to change the timescale
- investigate your concerns so they can provide a response
- write to you once they have investigated and responded to your concerns, and offer a resolution
- help to make sure you understand the complaints process or offer advice on where to receive assistance, such as from your local NHS complaints advocacy provider

How your case will be investigated and resolved:

Every case is different, and investigations and solutions may vary depending on the issues involved in your case. Throughout the process, the NHS may:

- offer a meeting to discuss your concerns, which may involve you speaking with the staff directly about what has happened. *A friend, relative or advocate can attend any meetings with you. These meetings are often held at the location of the NHS service provider which the complaint is about.*
- use conciliation or mediation services to help resolve the issues. *The conciliator/mediator will only be involved if everyone affected agrees and will be an independent person who can arrange meetings with you and others involved. These meetings can be separate or together and allow you to discuss your experiences.*

You can request that a specific NHS staff member be present or not at your meetings. You don't have to attend these meetings if you don't want to, but it is usually helpful to do so.

At the meetings you should expect:

- a chair to be responsible for managing the meeting and making sure all concerns are discussed; the chair is often the person handling the complaint
- to be introduced to everyone attending the meeting
- a formal record to be kept, either in notes or a recording. *They must ask your permission before recording the meeting. You should also be given/sent a copy of the meeting notes or recordings.*
- to be informed of any actions that have been agreed on
- any next contact with you to be agreed

If you feel uncomfortable or distressed whilst at the meeting you can ask for a break or ask for the meeting to be stopped and reconvened at another time.

Your advocate can assist you through this process by either attending the meetings with you, or helping you prepare for meetings.

How will you be informed of the outcome

When the NHS has finished investigating your issues and all meetings have been held, the person handling your complaint will send you a letter. This letter will contain:

- a summary of your concerns
- the outcomes of the investigation and details of any actions that are going to be taken as a result
- information on what to do if you are unhappy with the outcomes

Each investigation is different and will receive different responses; however, the letter you receive may contain:

- an apology
- what actions are going to be taken as a result of your concerns
- details of who is responsible for the action(s)
- what steps have been taken to make sure the issue(s) do not happen to other people

The letter should be impartial, factual, and address all the issues raised. The resolution should be explained and be easy to understand. The letter should not contain any technical terms; if it does, an explanation of those terms should also be included.

The letter should have been received within the timescale agreed upon when lodging the complaint. If this date has passed and you have not received your letter, you can ring, email or write to the person handling your complaint to ask when you should expect to receive it.

You may receive the letter by email if this was agreed.

Step 4: If you're not satisfied with the outcome

Occasionally, the outcome of the complaint isn't as expected. If you are not happy with the response you have received, you need to decide exactly what you are unhappy about. The following will help you decide what you would like to do next.

A simple way to help you decide may be to:

- review any letters, meetings, and conciliation or mediation processes
- check whether the plan agreed upon with the NHS provider was followed
- review which of your concerns are yet to be answered
- understand whether the evidence you gave was not properly considered
- look into whether you have achieved the outcome you wanted, and if not, review what could have been done to achieve the outcome
- check whether the complaints manager followed the ombudsman's good complaints handling principles

Your options include:

- writing another letter explaining what you believe has not been covered
- calling the person handling your complaint and explain why you are unhappy with the outcome
- requesting a meeting to discuss your concerns and why you believe they haven't been met
- taking your complaint to the Health Service Ombudsman

If you ask for a further investigation into your concerns through the local resolution process, the NHS complaints service will discuss and agree a plan of action, including timescales involved. If they decide everything has been done to answer your complaint, they will let you know in writing.

Step 5: Parliamentary & Health Service Ombudsman

You have the right to take your complaint to the Parliamentary and Health Service Ombudsman if you are unhappy with the outcome of the local resolution. You can't usually raise your concerns with the ombudsman until every effort has been made to resolve the matter locally.

You should be advised in writing that everything has been done to answer your concerns locally. This will mark the end of the local resolution process and you can then refer your complaint to the ombudsman if you are still not satisfied with the outcome.

The Parliamentary and Health Service Ombudsman helps to resolve complaints about the NHS. The ombudsman is independent of the NHS and their powers are set down in law. Their service is free and confidential.

By law, you should submit your concerns to the ombudsman within one year of the incident, or when you became aware of the problem. If a year has passed, the ombudsman may still be able to help you if there were good reasons for the delay in submission.

You can contact the ombudsman by:


 www.ombudsman.org.uk

 **0345 015 4033**

 **textphone on 0300 061 4298 if you have a hearing impairment or difficulties using a telephone**

 **phso.enquiries@ombudsman.org.uk**

 **texting 'call back' with your name and mobile number to 07624 813 005.**

 **fax on 0300 061 4000**

 **Parliamentary and Health Service Ombudsman,
Millbank, London, SW1P 4QP**

What happens next?

When the ombudsman receives your complaint, they will first look at whether it is something they are able to investigate by law. The ombudsman may decide they can resolve the issue quickly by talking to the NHS provider that the complaint is about. If the ombudsman decides the NHS provider can do more to resolve the issue locally, they will ask them to do so.

The ombudsman will not usually investigate concerns when:

- there is no evidence to suggest the NHS provider has acted incorrectly
- the NHS provider has done everything possible to make things right
- the outcome desired cannot be achieved

When the ombudsman investigates your concerns, they will look in detail at what has happened. When doing this, they may need to gather more information by contacting you and/or the NHS provider involved. Every complaint will be handled differently depending on the nature of the complaint, and therefore, the steps they take throughout the investigation may vary.

Outcomes from the ombudsman

If the ombudsman decides the NHS have got things wrong, they will contact you and the NHS provider to explain their decision and recommend how things can be resolved. Their resolution may include asking the NHS provider to:

- acknowledge their mistakes and apologise
- compensate you
- give a better explanation of their actions
- make changes so the problem does not happen again

Alternatively, the ombudsman may decide whether the NHS provider acted correctly or that they have already done enough to resolve the situation. If this is the case, they will contact you to explain why they have decided this. The ombudsman will usually share any expert advice they have received to give you more information about what happened.

What happens if you are unhappy with the ombudsman's decision?

The ombudsman's decision is final. This also includes their decision to not investigate your complaint if that happens.

If you feel the ombudsman's decision is wrong, you may, under certain circumstances, ask them to review their decision. The review does not involve a complete investigation into the complaint. It usually involves reviewing whether the ombudsman took all the evidence into account and made a fair decision.

If you still disagree with the decision made by the ombudsman, you can challenge this through the courts using judicial review.

You may wish to see your medical records throughout the complaints process. If you're unsure how to get access to these, we can help.

Your patient records will include:

- records from your GP and hospital doctor
- nursing records
- records created by other NHS staff
- records of your visits to the practice, clinic or hospital
- records of any NHS staff visits to you
- details of any tests and their results, referrals, diagnosis, treatment, medication, etc.

Your rights regarding your records:

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

- your doctor thinks that giving access to your records would seriously harm you or any other person. *Be aware that this refusal may apply to part of your records and there is no obligation to inform you of a partial refusal. You can ask if any part of your records have not been made available to you.*
- giving access to your records would involve "disproportionate effort" on the part of a Trust or GP practice.

How to apply for your records:

You need to apply for access to your records. Applying for your records is normally a simple process called a subject access request. Some GP practices and Trusts have a form specifically designed for this and most Trusts will have an appointed person to deal with your request.

You should be given access to your records within one calendar month, starting from the day they receive the request. If your request is complex, or you make more than one, the response may be a maximum of three calendar months, starting from the day of receipt.

We recommend getting copies of your records if you need to use something as evidence in your complaint. If you would like copies of your records, Trusts and GP practices cannot charge you for supplying this information unless the request is unfounded or excessive, or if someone requests further copies of their data following a previous request. If this is the case, a reasonable fee for administrative costs can be charged.

Trusts and GP practices must also explain anything within the records that is not easy to read, or where they use terminology that you do not understand.

If you are applying for someone else's records:

You may want to apply to see someone else's records. If this is the case, the person must give you authority to do so in writing, and you must have the legal authority to make a decision on the person's behalf or have another legal basis for access. This includes parents wanting to see a child's records as long as the child is able to understand the situation, and this is usually for a child aged 13 or over. For children aged 12 and under, a person with parental responsibility will usually be entitled to access the records. If the person is not able to give authority due to incapacity or illness, you may need to seek legal advice and court authorisation.

Records for a deceased patient can only be seen by a Person Representative (the executor or administrator of the deceased person's estate), or someone making a claim arising from the death unless the deceased requested in their records that they did not want that person to have access to them.

Inaccurate records?

You can ask for them to be corrected.

If your doctor disagrees with the changes you would like to make, ask them to attach a record of the disagreement to your records.

If you would like to make a complaint about this, you can contact the [Information Commissioner's Office](#).

Asking for an NHS complaints advocate

If you live in **Medway**, or the **London Borough of Hammersmith and Fulham**, and you'd like more support with your complaint to the NHS, contact us.



referrals@librapartnership.co.uk



referral.librapartnership.co.uk



Hammersmith & Fulham

0333 305 1329

Medway

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