

# Gaddum ... Advocacy

## Your step by step guide to making a complaint to the NHS

This document has been designed to guide you through the NHS complaints process, step-by-step. It will provide straightforward information and tips on how to use it. Its aim is to provide you with the relevant information you need to progress with your complaint, the different options available to you and to make you feel more confident about raising your concerns.

You can refer to this document to help you make a complaint by yourself or you can refer to it as you work through your complaint with an Advocate.



# Gaddum ... Advocacy

## Your right to make a complaint.

You have a right to make a complaint through the NHS complaints procedure if you are unhappy with the care, treatment or service you have received from the NHS.

The NHS Constitution explains your rights when it comes to making a complaint.

You have the right to:

- **have any complaint you make about NHS services acknowledged within 3 working days and to have it properly investigated..**
- **to discuss the manner in which the complaint is to be handled, and to know the period within which the investigation is likely to be completed and the response sent.**
- **to be kept informed of progress and to know the outcome of any investigation into your complaint, including an explanation of the conclusions and confirmation that any action needed in consequence of the complaint has been taken or is proposed to be taken.**
- **to take your complaint to the independent Parliamentary and Health Service Ombudsman if you're not satisfied with the way the NHS has dealt with your complaint**



If you want to find out more about the NHS Constitution and your rights under the NHS complaints procedure, you can refer to the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. You can find links to the regulations by visiting [www.legislation.gov.uk](http://www.legislation.gov.uk)

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## Do you need to make a complaint?



Are you unhappy with something that is happening right now?

If yes, It may be that your best option is to try and resolve these issues informally by making a member of staff aware. You can ask to speak to the Practice Manager, Team Manager, Ward Manager relating to your care. This is often the quickest way to put things right.

You can also speak to the Patient Advice and Liaison (PALS), who may also be known as Customer Care or Patient Experience, if your complaint is related to hospital care/treatment. They provide information, advice and support to patients, families and their carers and can help you to get answers to your questions quickly. PALS is run by NHS staff. For more information contact your local hospital trust.

Some hospitals have a service called 'Tell us today' where you can call a designated line to share concerns about something happening at the time. You can find this out from the hospitals Patient Experience/PALS Team.



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,
- You wish to raise complex issues
- The issues involved concern more than one organisation

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



Raising complaints can help to put things right for you or you could receive an explanation or apology. Sharing your experience gives the NHS a chance to learn from what has happened and improve the care and treatment they provide for others in the future.

# Gaddum ... Advocacy



## Advocacy support to make a complaint

You have the legal right to access Independent Health Complaints Advocacy (IHCA) if you have a complaint about NHS funded care and/or treatment that is in line with the NHS complaints Regulations 2009.

Some people choose to use advocacy to raise their complaint, others do this independently by going directly to the NHS. It is your choice how you do this. You do not have to access Advocacy to make a complaint to the NHS.

IHCA support people where they would feel unable to initiate or progress a complaint without support.

Some people may need to just ask some questions about the process. IHCA can support you with this. The aim of this booklet is to provide you with the information needed to pursue your complaint.

If you need to speak to a member of the Advocacy Team you can contact us via:

Telephone: 0161 834 6069

Email: [Advocacy@gaddum.org.uk](mailto:Advocacy@gaddum.org.uk)

Post: Gaddum, 6 Great Jackson Street, Manchester, M15 4AX

## **What is covered by the NHS Complaints procedure?**



The NHS complaints procedure applies to all services provided or funded by the NHS including: GP's, hospitals, pharmacies, opticians, dentists, mental health services and the ambulance service. It also applies to complaints about NHS funded nursing home care or a home based care package funded by the NHS.

There are also independent providers of services that are funded by the NHS. If the service you wish to complain about is in Manchester and you are unsure if it is NHS funded, you can contact: Manchester CCG, Feedback and Complaints Service

## **What is not covered by the NHS Complaints procedure?**



You cannot use the complaints procedure for complaints that are about:

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

## Who do I complain to?

### If your complaint is about a hospital, mental health service provider, community services provider or ambulance service:

Complaints can be made to the NHS Trust responsible for that service. You can contact the Complaints Manager (usually based within the PALS Team) or the Chief Executive of the Trust.

You can also contact your local clinical commissioning group (CCG) for complaints about secondary care, such as hospital care, mental health services, out-of-hours services, NHS 111 and community services like district nursing, for example.

You can contact Manchester CCG's Feedback and Complaints Service to find out more information about commissioners of NHS services. The contact details can be found in this booklet under 'Useful contacts'

### If your complaint is about a GP Practice, Dental Practice, Opticians or Pharmacy:

You can complain directly to the service provider themselves. You can ask to speak to the Practice Manager to raise your concerns verbally, in writing or via email.

If you don't feel able to raise your complaint directly to the provider of the service, you can direct your complaint to the commissioner of Primary Care Services which is NHS England. You can find their contact details in this booklet under 'Useful contacts'

If your complaint is about an independent NHS contractor you can ask them for the details of how to make a complaint or approach the relevant commissioner. The organisation you wish to complain about should be able to tell you who this is.



**Note: It is important to understand that you can take your complaint to the service directly OR to the commissioner. You are not able to do both.**

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## Who can complain?

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

You can also make a complaint on behalf of:

- Someone who has died,
- A child,
- Someone who cannot complain for themselves because of- Physical Incapacity or lack of Mental capacity under the Mental Capacity Act 2005.
- Someone who has asked you to do so provided they have given written consent.
- Written consent from the patient will be requested by the NHS organisation (where appropriate).

### Complaining on behalf of a child

- The organisation you are making the complaint to will only consider the complaint if they are satisfied that there are reasonable grounds for you to make the complaint instead of the child. If the NHS is not satisfied, they must notify you in writing and state their reasons for their decisions.
- The NHS organisation also needs to be satisfied that the complaint is in the best interests of the child. This is also applicable where complaints are being made on behalf of a person who lacks mental capacity. If a decision is made not to investigate, they must let you know their reasons why they have made this decision, in writing.
- The Independent Health Complaints Advocacy do support children and young people to make a complaint themselves.

### Consent

- An NHS body usually request consent (where appropriate) from the patient to investigate and release details to the complainant. This is because some of the information provided is personal and is covered under the Data Protection Act. If it is not possible to provide this consent, the organisation will look at whether the complaint is being made in the person's best interests (in line with the Mental Capacity Act 2005). The NHS may not be able to provide a complete response. They may be able to provide a letter which answers the concerns generally, not providing any personal or specific details about the patient

# Gaddum ... Advocacy

## Using the complaints process

The NHS complaints process is a two part process:

1. Local Resolution stage- This is where you liaise with the NHS Organisation to raise your concerns to try to reach a resolution.
  2. The Parliamentary and Health Service Ombudsman- They are an Independent organisation that make final decisions on complaints that have not been resolved by the NHS in England.
- There are certain things that should happen when you submit your complaint. There may be more specific details in the local complaints policy for each organisation. However generally under the regulations you can expect the following:

### Acknowledgment

Your complaint should be acknowledged in writing within 3 working days of the department receiving your complaint. If the NHS is unable to investigate your complaint, they should write to you to inform of the reasons why.

The acknowledgment letter usually informs you of who will be managing your complaint and a timeframe in which they expect to have the investigation completed. If you don't receive an acknowledgment in this time frame, you may want to consider calling the department you sent your letter to, to check they have received it.



**TIP: Make a note of the date that you send the letter. Some people choose to send it via recorded post**

### Timeframe

Time frames for investigations are usually 25 working days or 60 working days for more complex complaints. If the timescale that is given needs to be extended, the NHS organisation should write to you to inform you of this, or they will contact you to agree a new date. Timescales can be affected by the complexity of the complaint, the amount of people who need to be contacted or ease of access to your medical records.



# Gaddum ... Advocacy

## Using the complaints process

### Investigation

During an investigation, relevant staff may be spoken to about your complaint and your medical records may be looked at (where relevant). During the investigation process, you can keep in contact with the Case/Complaints Manager that is allocated as your point of contact. Their details will be on any correspondence you received from the NHS about your complaint. When the investigation is complete, you will receive a copy of the letter.



**TIP: Make a note of your reference number which you can quote when speaking to the Complaints Team**



### Investigation is taking longer than expected?

NHS organisations are encouraged to review complaints that have taken longer than 6 months, to ensure that all is being done to resolve the issues. If you have not received a response within 6 months and the NHS haven't explained this and agreed an extended timeframe with you, you can speak to the Parliamentary and Health Service Ombudsman about this.



**TIP: The Ombudsman can speak to the NHS when complaints have not been responded to within 6 months to ask for information about the delays.**

# Gaddum ... Advocacy

## Local Resolution Meetings

Under the Complaints Regulations you can ask to have a meeting to discuss your complaint. This is a Local Resolution Meeting (LRM).

In some cases you may be invited to attend an LRM once you have submitted your complaint to the NHS organisation. You don't have to attend a meeting if you don't want to.

### Before attending the meeting:

- The meeting is usually held at the NHS organisation in which the complaint is about. You can let the NHS know of any needs you have to ensure that the room is accessible.
- If a meeting is required at your home, you can ask for this.
- Sometimes staff that you have complained about may be at the meeting. You can request that specific staff do not attend. In this scenario a Senior member of staff will attend in their place.
- In the same way, you can also request that certain members of staff do attend.
- You can take a family member or friend to the meeting with you and you can also be accompanied by an IHCA Advocate to attend this meeting.
- An IHCA Advocate can support you to prepare and attend the meeting. During preparation you can discuss the support your Advocate will provide.

### During the meeting

- Meetings should be recorded, usually via audio CD or sometimes minutes are taken. You will be asked for your permission for an audio recording to take place. Minutes are not verbatim. An IHCA Advocate is unable to bear witness to what has been said in a meeting and is unable to take notes. You may see your Advocate making notes of any agreed actions to assist you to follow this up at a later date.
- People in the meeting will introduce themselves.
- You or your IHCA Advocate can ask for a break.
- You can ask for clarification on points raised.
- You should be informed of any actions that have been agreed and what happens after the meeting. You or your IHCA can ask for this if this is not already clarified at the end of the meeting.

# Gaddum ... Advocacy

## Local Resolution Meetings

### After the meeting

- You can discuss the meeting and what happens next with your IHCA Advocate
- You should receive a copy of the meeting minutes or audio CD.
- You can raise any further concerns or get clarification on issues raised by having a further meeting or writing a letter.



## What to do if you are unhappy with the response to your complaint

You have the right to respond to the NHS Organisation.

If the NHS Organisation are willing to communicate with you to try to resolve your issues, it may be worth considering the points below:

- You can write a further letter to the NHS explaining what you feel has not been covered.
- You can speak to the person who is dealing with your complaint to express your dissatisfaction and to explain why.
- You can request a meeting. If you have already had an LRM, you can request a further meeting. It is always at the discretion of the NHS organisation as to whether they facilitate this. If they decide that they are unable to, they should inform you in writing.

There may be a further investigation period and a new timescale will be agreed.

Usually the Ombudsman will only consider cases that have been through the first stage of the complaints procedure, and that every effort has been made to resolve this matter locally. The Ombudsman will usually ask that the NHS organisation has had a chance to respond and where appropriate, to put things right before they are involved.

A submission to the Ombudsman will usually ask you to provide the final response you have had from the NHS Organisation you are making the complaint about.

You can speak to the Independent Health Complaints Advocacy to establish what your options are and at which part of the complaints process you are at.

# Gaddum ... Advocacy

## Taking your complaint to the Parliamentary and Health Service Ombudsman

The Parliamentary and Health Service Ombudsman, or PHSO as it is also known, is the second and final stage of the complaints process.

The Ombudsman is a free, confidential and independent organisation that undertake independent investigations into NHS complaints. They make final decisions on complaints that have not been resolved by the NHS in England.

You can complete a form online via their website, or you can download a form to complete and send via post/email. You can find information on the Ombudsman's website to support you with filling in their form. Contact details for the Ombudsman can be found in this booklet under 'Useful contacts'

### The Ombudsman process (3 Steps)



#### When you first contact the Ombudsman

What happens?

First they will do some initial checks to make sure your complaint can be dealt with. This includes checking that:

- They can look into the organisation and issue you're complaining about
- You have been through the organisation's own complaints process already

How long does this take?

The Ombudsman aim to complete these checks within five working days.

What can The Ombudsman decide?

If your complaint can be dealt with, The Ombudsman will let you know and refer it on to step two. The Ombudsman receive over 29,000 complaints a year and just over 25% are taken forward to this step.

If your complaint can't be taken forward, you will be given information about what you can do next. This is how The Ombudsman help almost 75% of the people who contact them, and includes giving advice about how to complain to the organisation you're unhappy with, if you haven't done this already.

To find out more about this step in our process, you can watch a short animation or download a guide 'What happens when you first contact us'

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# Gaddum ... Advocacy



## Deciding whether to investigate your complaint

What happens?

The Ombudsman take a closer look at your complaint to decide if they should investigate. Several things are looked at including:

- whether you have been affected personally by what happened
- whether you complained (to The Ombudsman or an MP) within a year of knowing about the issue
- whether you have (or had) the option of taking legal action instead
- whether there are signs that the organisation potentially got things wrong that have had a negative effect on you that hasn't been put right

How long does this take?

The Ombudsman aim to give you their decision within 20 working days of receiving your complaint.

What can The Ombudsman decide?

If they decide your complaint should be investigated, they will let you know what will happen next. Over 8,000 complaints are considered a year at this step. Around half will go on to be investigated. If it is decided not to investigate your complaint, The Ombudsman will explain why. If there are other options open to you, they will let you know what these are.

To find out more about this step in the process, watch a short animation or download the guide. 'Deciding whether to investigate'



## Investigating your complaint

What happens?

The Ombudsman will talk to you about your concerns and what is going to be investigated. They will tell you how long the investigation will take and you will be kept updated. The Ombudsman will gather all the information needed, including from you and the organisation you have complained about, before a final decision is made on your complaint.

How long does this take?

The aim is to complete most investigations within three to six months. Some take longer than this, but the Ombudsman aim to complete 98% within a year.

What can be decided?

If your complaint is upheld it means that the Ombudsman found the organisation got things wrong that have had a negative effect on you that hasn't been put right. They can recommend what the organisation should do about this. The Ombudsman investigate around 4,000 complaints a year and uphold, in full or in part, around 40%.

To find out more about this step in the process, watch a short animation or download the guide.



## **Accessing Medical Records**

Under the Data Protection Act 1998 and GDPR you have the right to see your medical records. Sometimes this is known as a Subject Access Request (SAR)

If your doctor thinks that viewing the information contained in your records, could cause harm to you or another person, you may be refused access to some parts.

### Applying for your records

- Some organisations have a form that you would need to complete. Some larger NHS organisations such as Hospital Trusts may have a designated department dealing with these requests.
- Records should be made available within 40 days of applying to see them, or 21 days if they have been added to within the last 40 days.
- You can request someone to view your records with you and explain anything in there which is not easy to read or uses technical, medical language.
- You can request copies of the records, NHS bodies can charge up to £50 for this.
- You can also request copies of electronic records held about you. The Information Commissioners Office state that this should cost no more than £10.

Charges can sometimes be waived if they are requested in connection with a complaint. You will need to check with the individual organisation. To help reduce cost and time it may take to access records, you can consider whether asking for a specific section of care and treatment you are interested in. For example a specific department or time period.

An Advocate is able to provide you with information about medical records access, however is unable to help you access or understand them. An Advocate can help you to use details from the medical records in a letter or complaint or for a meeting.

Under certain circumstances you can apply to access someone else's records. Information about this can be found on the NHS Choices website.

Usually during a complaint investigation, medical records will be accessed by relevant people at the NHS body. They will send you a consent form which you would need to sign and return in order for this investigation to proceed.

For information on data held about you, you can contact the Information Commissioners Office (ICO). You can find their contact details on the 'Useful contacts' at the end of this booklet

# **Matters not covered by the NHS complaints procedure**

## **Compensation for clinical negligence or other legal claims**

If you wish to seek compensation you will need to seek legal advice. You can speak to a solicitor and seek guidance from an organisation called AvMA. They are a UK charity that provide support and advice to people affected by medical accidents (lapses in patient safety)

### **AvMA**

Action against Medical Accidents, Freedman House, Christopher Wren Yard, 117 High Street, Croydon, CR0 1QG

Helpline- 0845 123 23 52 (helpline only – Mon-Fri 10am - 3:30pm)

Website- <http://www.avma.org.uk/>

## **Disciplinary action against NHS staff**

The NHS complaints procedure cannot be used for personnel matters such as obtaining disciplinary action against a member of staff. You can contact the relevant professional regulatory body.

## **Contractual or commercial matters**

The complaints procedure can not be used in commercial or contractual disputes. You may wish to seek legal advice.

## **Complaints about social care**

You will need to contact the Manchester Feedback and Complaints Service. This is a service which was started from 1 July 2019 and is an integrated health and adult social care feedback and complaints service. It is provided by Manchester City Council working in partnership with NHS Manchester Clinical Commissioning Group

Address- Manchester City Council, PO Box 532, Town Hall, Manchester, M60 2LA

Telephone– 0161 953 8388

Email- [nhscomplaints@manchester.gov.uk](mailto:nhscomplaints@manchester.gov.uk)

Website- <https://manchesterccg.nhs.uk/contact/comments-and-complaints/>



## **AvMA**

Freedman House, Christopher Wren Yard 117 High Street, Croydon, CR0 1QG  
Tel: 0845 123 23 52  
Website: [www.avma.org.uk](http://www.avma.org.uk)

## **NHS England**

Post: NHS England, PO Box 16738, Redditch, B97 9PT  
Tel: 0300 311 22 33  
Email: [england.contactus@nhs.net](mailto:england.contactus@nhs.net) ('For the attention of the complaints team' is to be included in the subject line)  
Website: <https://www.england.nhs.uk/>

## **Manchester Feedback and Complaints Service**

Post: Manchester City Council, PO Box 532, Town Hall, Manchester, M60 2LA  
Tel: 0161 953 8388  
Email: [nhscomplaints@manchester.gov.uk](mailto:nhscomplaints@manchester.gov.uk)  
Website: <https://manchesterccg.nhs.uk/contact/complaints-and-complaints/>

## **Parliamentary and Health Service Ombudsman**

Post: Citygate, Mosley Street, Manchester, M2 3HQ  
Tel: 0345 015 4033  
Callback service: Text 'call back' with your name and your mobile number to 07624 813 005  
Email: [Phso.Enquiries@ombudsman.org.uk](mailto:Phso.Enquiries@ombudsman.org.uk)  
Website: <https://www.ombudsman.org.uk/>

## **Care Quality Commission**

Post: CQC National Customer Service Centre, Citygate, Gallowgate, Newcastle upon Tyne, NE1 4PA  
Tel: 03000 61 61 61  
Email: [enquiries@cqc.org.uk](mailto:enquiries@cqc.org.uk)  
Website: [www.cqc.org.uk](http://www.cqc.org.uk)

## **Healthwatch Manchester**

Post: Canada House, 3 Chepstow Street, Manchester, M1 5FW  
Email: [info@healthwatchmanchester.co.uk](mailto:info@healthwatchmanchester.co.uk)  
Tel: 0161 228 1344  
Website: <https://www.healthwatchmanchester.co.uk/>

## **Information Commissioners Office (ICO)**

Post: Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF  
Tel: 0303 123 1113  
Email: [casework@ico.org.uk](mailto:casework@ico.org.uk)

## **The Health and Care Professionals Council**

Post: Park House, 184 Kennington Park Road, London, SE11 4BU  
Tel: 0300 500 6184

## **General Medical Council**

Post: Fitness to Practice, General Medical Council, 3 Hardman Street, Manchester, M3 3AW  
Tel: 0161 923 6602  
Email: [Practice@gmc-uk.org](mailto:Practice@gmc-uk.org)

## **Nursing and Midwifery Council**

Post: 1 Kemble Street, London, WC2B 4AN  
Tel: 020 7637 7181  
Email: [newreferrals@nmc-uk.org](mailto:newreferrals@nmc-uk.org)

## **General Dental Council**

37 Wimpole Street, London, W1G 8DQ  
Tel: 020 7167 6000  
Email: [complaints@gdc-uk.org](mailto:complaints@gdc-uk.org)

# How to contact us:

**Gaddum**  
**6 Great Jackson Street**  
**Manchester**  
**M15 4AX**



**[advocacy@gaddum.org.uk](mailto:advocacy@gaddum.org.uk)**



**[gaddum.org.uk](http://gaddum.org.uk)**



**0161 834 6069**

**Monday to Friday 9 am - 5 pm**