

# **NHS COMPLAINTS INFORMATION PACK**

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# BEFORE YOU MAKE AN NHS COMPLAINT



## IS AN NHS COMPLAINT THE RIGHT ROUTE FOR YOU

You have the right to make a complaint about any aspect of NHS care, treatment or service. If you're unhappy, it's often worthwhile to talk about your concerns early on with the provider of the service, as they may be able to sort the issue out quickly. Making a complaint and getting a response can take a considerable length of time so it's important to make sure it's the right route for you before you start.

**Use our flow chart (on the other side of this sheet) to help you decide whether a formal complaint is the right route for you.**



### HOW LONG DO YOU HAVE TO MAKE A COMPLAINT?

Complaints should normally be made within 12 months of an incident or of the matter coming to your attention.

This time limit can be extended provided you have good reasons for not making the complaint sooner and the NHS organisation decides it's possible to still complete an investigation. Often, if a complaint happened some time ago, staff will have moved on and not be available to talk to about what happened. Unfortunately this can limit the investigation and what can be achieved.



## INFORMAL WAYS TO TRY AND RESOLVE ISSUES

### Talking to the provider of the service

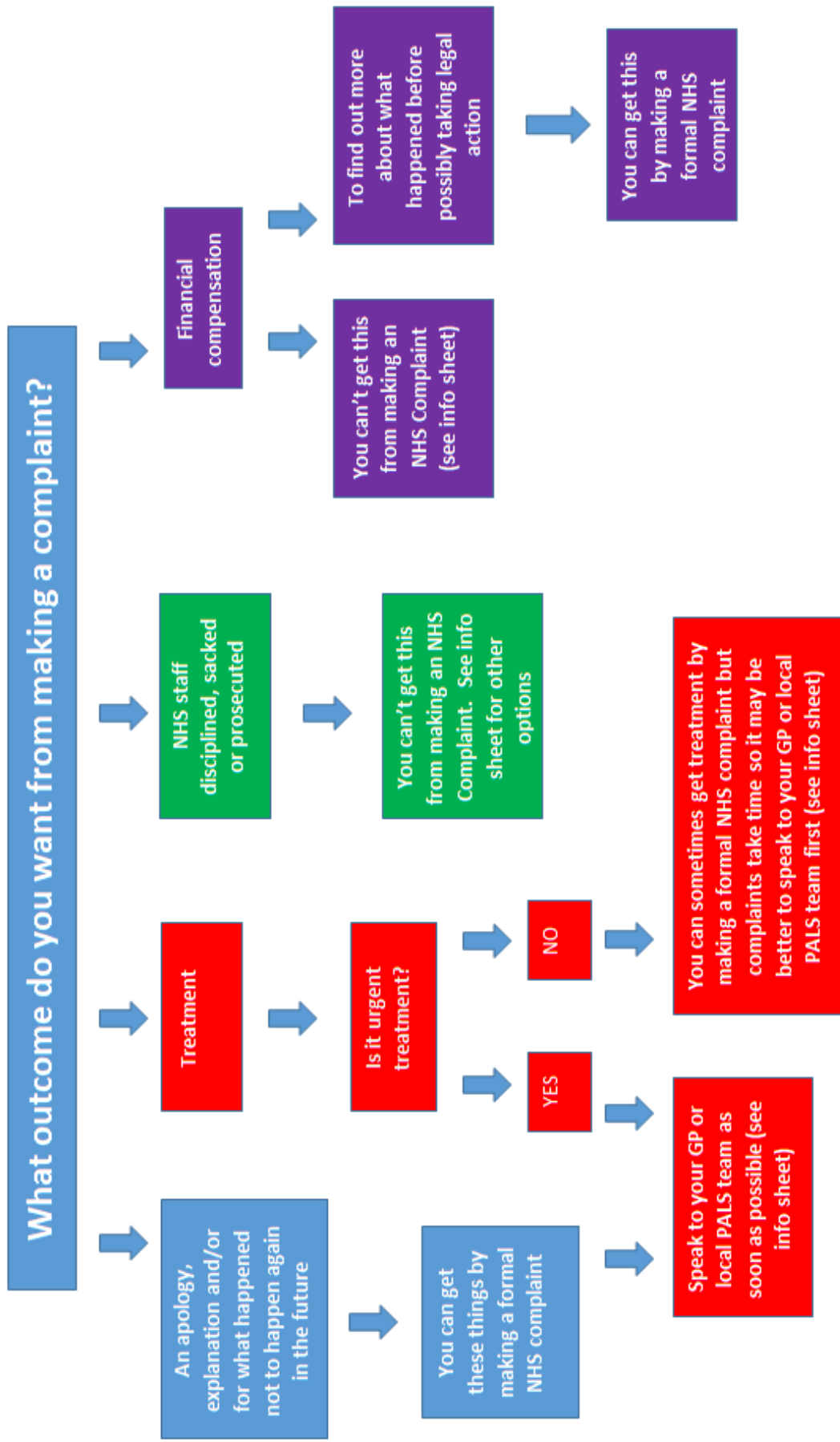
Raising the problem with the staff involved or the manager of the team can sometimes help. They may be able to solve the problem informally and quickly before you need to make a complaint. In the case of GP issues this could be talking to the GP themselves or the manager of the practice.

### Contacting your local PALS (Patient Advice and Liaison Service)

You'll find a PALS in most hospitals. PALS can help you resolve issues informally with hospitals before you need to make a complaint. They can be particularly helpful if your issue is urgent and you need action immediately, such as a problem with the treatment or care you receive while in hospital.

You can get in touch with PALS by contacting your local hospital (see '**USEFUL CONTACTS**').

# Is an NHS Complaint the right route for you?



## WHAT DO YOU WANT TO GET OUT OF MAKING A COMPLAINT?



### OUTCOMES THAT YOU MAY BE ABLE TO GET

- **An apology**
- **An explanation**
- **Promises that lessons have been learnt and things will change so what happened won't happen again in the future**
- **Treatment**

You can sometimes get treatment but, as complaints take time, it may be better to speak to your GP or PALS team first (see **'USEFUL CONTACTS'**) to see if they can help.



### OUTCOMES THAT YOU WON'T BE ABLE TO GET

- **Legal action**

If you are seeking financial compensation for damage to health caused by medical negligence you will need to take legal action

Before starting legal action you may find it helpful to make an NHS complaint to find out more about what has happened as it could help you decide whether to go ahead with a clinical negligence case.

If you're thinking about taking legal action about clinical negligence, you should contact a solicitor specialised in clinical negligence cases (see **'USEFUL CONTACTS'**).

- **Staff disciplined, sacked or prosecuted**

You cannot get staff disciplined, sacked or prosecuted by making an NHS Complaint.

If you think that an NHS practitioner has been guilty of professional misconduct, it may be possible to complain to the practitioner's professional or regulatory body (see **'USEFUL CONTACTS'**).

- **Financial Compensation**

If you are seeking a small amount of money for, perhaps, lost property, damaged items or loss of earnings, you can raise this as part of an NHS Complaint. For larger amounts relating to medical negligence you will need to take legal action.



# THE COMPLAINTS PROCESS

- **WHO CAN COMPLAIN?**

Anyone can complain, including young people. A family member, carer, friend or your local MP can complain on your behalf with your permission.

- **HOW SOON DO YOU NEED TO COMPLAIN?**

You should make your complaint within **12 months of the incident or within 12 months of the matter coming to your attention**. This time limit can sometimes be extended as long as it is still possible to investigate your complaint.

- **WHO DO YOU COMPLAIN TO?**

You can choose to complain to either of the following:

## **The healthcare provider**

This is the organisation where you received the NHS service, for example your hospital or mental health service trust. If you are complaining about a GP or Dentist you can complaint to them directly or you can send the complaint via NHS England (see '**USEFUL CONTACTS**').

## **The commissioner of the service**

This is the organisation that pays for the service or care you received. This will vary depending on the NHS service you are complaining about.

- If your complaint is about primary care services such as GPs, dentists, opticians or pharmacy services, 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, contact your local clinical commissioning group (CCG) (see '**USEFUL CONTACTS**').

**Complaining to the commissioner may be the right option if you are not comfortable complaining directly to your healthcare provider, or if you feel it's not appropriate.**

## **WHAT IF YOUR COMPLAINT IS ABOUT MORE THAN ONE ORGANISATION?**

If your complaint is about more than one NHS organisation, you only need to send a letter to one of the organisations and ask them lead a '**coordinated response**'. They should contact the other organisation and work with them to deal with your complaint.





# HOW TO START A COMPLAINT

The first stage of a complaint is called **local resolution**. You can start local resolution by making your complaint in person, in writing or by email. It's generally best to make it in writing (see '**Writing a Complaint Letter**').



## HELPFUL HINTS

- Whichever method you use, make sure you state that you are starting the complaints procedure.
- Give full details of the problem, including the name of any staff members involved. Make your description as short and clear as possible. Focus on the main issues, and leave out irrelevant details.
- Don't be afraid to say what has upset you, but try to avoid using aggressive language or making personal attacks
- You should also say what outcome you would like, for example, an explanation or apology or promises that lessons have been learnt.
- You are entitled to ask for a local resolution meeting if you feel it would help to talk face-to-face to talk about your complaint (see '**LOCAL RESOLUTION MEETINGS**').
- If you complain in writing, keep a copy of everything you post, and make a note of when you sent the letter. If you need to enclose other documents, only send copies and keep the originals. You might want to send your letter by recorded delivery to make sure they get it.
- If you make the complaint verbally, it's a good idea to make notes beforehand of what you want to say as it's easy to get distracted if you're upset.
- If you're complaining on behalf of someone else, you will usually need their consent, so get them to also sign the letter if they can, or enclose an authorisation for you to act on their behalf.
- If you're complaining on behalf of a patient who has died, you'll need to provide evidence that you're the next of kin or that you have got the permission of the next of kin to make the complaint.





# WRITING A COMPLAINT LETTER

## 1) Provide your details and the details of the organisation you are complaining about:

- Your full name, address and telephone number
- Name and contact details of the healthcare provider you wish to complain about

## 2) Explain what has happened to you.

- Write down the events in date order, with as many facts as you can (dates, places and staff names)
- Try to keep your description brief without leaving out any important details. Ideally your letter should be no longer than 2 pages

## 3) Clearly state the issues you are complaining about:

- List exactly the issues you want investigated saying why you are unhappy with what happened
- Try to write in a calm manner and wherever possible avoid using aggressive language or making personal attacks

## 4) State the outcome you are hoping for:



### Outcomes you can get:

- An apology
- An explanation
- Promises that lessons have been learnt and things will change so what happened won't happen in the future



### Outcomes you can't get:

- Compensation
- NHS staff disciplined, sacked or prosecuted
- You can ask for treatment however, if this is the main reason for your complaint, there are other options that may be better

See '**BEFORE YOU MAKE AN NHS COMPLAINT**' for more details on possible complaint outcomes

# COMPLAINT LETTER TEMPLATE

Your address and telephone number

Complaints Team (or other e.g. NHS ENGLAND)  
Name and address of organisation

Date

Dear Complaints Team (or other)

I am writing to complain about the treatment I have received from (include names of staff, place where you received treatment)

- **Story.** Describe clearly what happened, when and where.
- **Issues.** List the areas you would like to be investigated using bullet points. Explain why you are unhappy, be clear and concise and ask any questions that you would like answered.
- **Outcomes.** Say how you would like your complaint resolved. For example; an apology, explanation or for procedures to change.
- **Meeting request.** If you decide it would be useful state that you would like a meeting to discuss your complaint.

I look forward to receiving your acknowledgement of this letter. I would like you to carry out a full investigation into my complaint and provide a response in accordance with the NHS Complaints Procedure.

If you require further information please do not hesitate to contact me.

Yours Sincerely

*Your Signature*

Print your name

# WHAT HAPPENS AFTER YOU MAKE A COMPLAINT?

The organisation you send your complaint to should send you a letter, acknowledging the complaint, no later than three working days after they receive it. Sometimes they may ring you to acknowledge the complaint instead of sending a letter.

They should offer to discuss what you want to get from making the complaint (if it's not clear), how they will handle the complaint and how long it will take them to send you a response letter. If you don't want to have a discussion, they must still tell you in writing when the investigation is likely to be finished and when you should get their response.

If you have made the complaint verbally, you should be given a copy of your verbal statement and asked to confirm that it contains the issues you wish to raise.

If you have asked for a local resolution meeting then this should be arranged.



## HOW LONG WILL IT TAKE TO GET A RESPONSE LETTER?

There are no limits on how long it will be before you receive a response letter but it has to be in a reasonable time. The timescale will depend on a number of things including how complicated your complaint is.

If the response is are going to take more time than was originally agreed then they should get in touch and let you know this and give you a revised date.

If you don't receive a response for more than 6 months, you can contact the **Parliamentary and Health Service Ombudsman**.

**IN OUR EXPERIENCE COMPLAINTS CAN  
TAKE ANYTHING FROM 3 MONTHS TO OVER A YEAR.**





# LOCAL RESOLUTION MEETINGS

Some people find talking face-to-face helpful when trying to resolve a complaint. Under the Complaints Regulations you have the right to ask for a meeting. This is called a **Local Resolution Meeting (LRM)**. LRMs can provide an opportunity to talk about what has happened to you, ask questions and get answers from the NHS staff involved in your complaint.

You can ask for a meeting at any time during local resolution. In some cases you may be invited to attend an LRM when your complaint is first received. You don't have to attend a meeting if you don't want to.

The meeting is usually held at the NHS organisation in which the complaint is about. Sometimes staff that you have complained about may be at the meeting. You can request that certain staff do not attend, you can also request that certain members of staff do attend. You can take someone along for support (e.g. a family member or an Advocate).



## PREPARING FOR A MEETING

It can help to draft a list of your question/issues and use this as the agenda for the meeting. This will keep the meeting focused on the things that are important to you.

You can draft an agenda by looking at any answers or explanations you may already have, and identifying the issues that you remain unhappy with.

If you feel unable to produce a list of specific points or questions, you could simply list any topics you wish to discuss or themes, as well as any specific incidents, or episodes of care.

## WHAT HAPPENS DURING A MEETING?

At the start of the meeting the people there will introduce themselves. The points in your agenda should then be discussed and your questions answered. Everything talked about should be recorded in some way (e.g. by someone taking notes or making an audio recording).

Don't forget to ask for a break if you need one. You can also ask for clarification of anything that is unclear or not answered. At the end of the meeting you should be informed of any actions that have been agreed and what will happen after the meeting.





# THE RESPONSE LETTER FROM THE NHS



## THE RESPONSE LETTER SHOULD INCLUDE:

- an explanation of how the complaint has been investigated
- responses to each of the points you have raised
- apologies and information about what's being done as a result of your complaint (where appropriate)



## WHAT TO DO IF YOU ARE UNHAPPY WITH THE RESPONSE

If you are unhappy with the response you have the right to go back to the organisation dealing with your complaint and ask them to carry on trying to resolve your complaint. You can do this by:

- **Writing another letter explaining what you think has not been covered or is incorrect**
- **Calling the person handling your complaint and explaining why you are still unhappy**
- **Requesting a meeting to discuss your outstanding concerns**

Further investigation into your complaint may then be carried out. The NHS organisation should discuss this with you and agree a plan for doing this, including timescales.

If the organisation gets to a point where they believe everything has been done to answer your complaint they will advise you of that in writing. This is the end of local resolution.

They will also advise you that if you are still unhappy then you can make an application to the **Parliamentary and Health Service Ombudsman (PHSO)** (see '**PHSO**').



# The Parliamentary and Health Service Ombudsman (PHSO)

If you are not satisfied with the way your complaint has been dealt with by the NHS you have the right to take your complaint to the **Parliamentary and Health Service Ombudsman**.

The Ombudsman is independent of the NHS and their services are free and confidential.

The Ombudsman will look at every complaint that comes to them but they don't investigate all complaints. They will not normally investigate your case unless you have already tried to resolve the problem using local resolution.

They may send you back to the Local Resolution stage of the NHS Complaints Procedure if they think you have come to the Ombudsman too soon, or if they feel that the NHS organisation involved has not done all it can to resolve your issues.



You should make a complaint no later than **one year** from the date of the events you are complaining about (or from when you first became aware of the matter), although the Ombudsman can extend this time limit, for example, if the Local Resolution process took longer than a year.



## **The Ombudsman will not usually investigate a complaint where:**

- You do not agree with a decision made by your NHS provider but can't offer any evidence as to why their decision is wrong or unsatisfactory
- They decide that there is no evidence to suggest that the NHS provider acted wrongly
- They decide that the NHS provider or practitioner has done all they reasonably could do to put things right
- They decide there would not be a worthwhile outcome from an investigation (for example, if the outcome wanted by the complainant is not possible through this procedure)

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## **POSSIBLE OUTCOMES OF A PHSO INVESTIGATION**

1. The Ombudsman may decide not to investigate the case and take no further action (for example, if they think that the NHS has done all it can to resolve your complaint locally).
2. The Ombudsman may decide not to investigate the case but may ask the NHS organisation to take action which they think would resolve your complaint more quickly without the need for an Ombudsman investigation; this is called an 'intervention'.
3. The Ombudsman may decide to carry out an in-depth investigation resulting in a detailed report about the case; this investigation will be very thorough and can therefore take some time. The Ombudsman aims to complete 90% of investigations within 12 months.

**For more information on the PHSO and how to apply:**

**Helpline: 0345 015 4033 (8.30 am to 5.30 pm, Monday to Friday)**

**[www.ombudsman.org.uk](http://www.ombudsman.org.uk)**

# HOW CAN WE HELP?

**Our NHS Complaints Advocacy service is independent, confidential and free**



## **We can:**

- Provide you with an information pack to support you to make your complaint
- Talk through the complaints process and your options at each stage of the process
- Signpost you to other services who can help
- Provide you with an advocate to support you if you need more help (see below)



## **We can't:**

- Investigate your complaint
- Make decisions for you
- Give you legal advice
- Give you medical advice

**If you find it difficult to be involved in the complaints process an NHS Complaints Advocate can:**

Help you understand the complaints process and your different options

Help you compile all the issues you wish to raise in the complaint and put them into a complaint letter

Liaise with the NHS staff on your behalf about your complaint

Support you to prepare for complaint meetings

Attend complaint meetings with you

For more information please get in touch:

**YORK ADVOCACY HUB**

**01904 414357**

**[office@yorkadvocacy.org.uk](mailto:office@yorkadvocacy.org.uk)**

**[www.yorkadvocacy.org.uk](http://www.yorkadvocacy.org.uk)**



# FREQUENTLY ASKED QUESTIONS

## *What is the NHS Complaints Advocacy Service? Do you offer advice?*

The NHS Complaints Advocacy Service is there to help you understand and go through the complaints process.

Advocacy is not advice. Advocates can provide you with the information and options you need to make an informed choice about what you want to do. An advocate is not there to tell you what to do or influence your decisions.

If you need specialist advice an Advocate can help you find those services that may be able to provide that for you.

## *'I want to make an NHS Complaint. Is York Advocacy independent from the NHS?'*

We are funded by the Local Authority but are an independent service. This means we do not work for the NHS and only act on your behalf.

## *'What is the difference between the NHS Complaints Advocacy Service and PALS?'*

The Patient Advice and Liaison Service (PALS) is funded by the NHS and are based in hospitals. They offer advice and assistance to patients, their relatives, friends and carers. They can listen to feedback, help get answers to your questions and liaise with NHS staff and services to help resolve any concerns.

PALS can help you resolve issues informally with hospitals before you need to make a complaint. They can be particularly helpful if your issue is urgent and you need action immediately, such as a problem with the treatment or care you receive while in hospital.

NHS Complaints Advocacy can support you if you decide you want to make a formal NHS Complaint. This could be after you have already contacted PALS and your issues could not be resolved informally.

PALS are based at York Hospital and you can contact them on **01904 726262** or by emailing **pals@york.nhs.uk**.

## *'How can I get a copy of my medical notes?'*

A request for information from health (medical) records has to be made with the organisation that holds your health records – the data controller. For example, your GP practice, optician or dentist.

For hospital health records, contact the records manager or patient services manager at the relevant hospital trust. You can find a list of hospital trusts on the NHS website (**www.nhs.uk**).

## *'I don't trust the service provider with my complaint: can't I just make a direct complaint to the Parliamentary Health Service Ombudsman?'*

The Parliamentary Health Service Ombudsman will normally only investigate complaints when a person has exhausted the Local Resolution stage of the complaints process and received a **final response** from the organisation or service you are complaining about. The Ombudsman believes that the organisation should be given a chance to respond and, where appropriate, try to put things right before they become involved.

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The final response should be in the form of a letter stating that the service or organisation has done all they can to resolve your complaint and that you should now take your complaint to the Ombudsman. Not having a final response may delay your case being looked at by the Ombudsman so it is important that you receive this.

## LEGAL ADVICE

### *“When can I seek legal advice regarding my NHS complaint?”*

You can seek legal advice at any time throughout the complaints process. However, a solicitor may suggest completing the NHS Complaints process before taking on your complaint. This would be dependent on the nature of the complaint.

### *‘What is the usual process with getting legal advice?’*

You should see a solicitor specialised in clinical negligence cases. They will need as much information as possible. It will help if you keep a record of everything that’s relevant to your treatment and any paperwork you've got if you've been through the complaints procedure. The solicitor will decide if your case has a reasonable chance of success and should be able to give you an idea how much your compensation you might get.

**The Law Society** have a ‘Find a Solicitor’ service for anyone looking for information about organisations or people providing legal services. You can contact them on their General enquiries line on **020 7242 1222** or visit their website at **www.lawsociety.org.uk**.

You may also want to contact **Action Against Medical Accidents (AVMA)** which is a specialist medico-legal advice service which is free and confidential. The service provides information and advice to people who have experienced some form of medical or clinical negligence. You can contact them on **0845 123 2352** or visit their website at **www.avma.org.uk**.

### *‘Can I make a complaint on behalf of a third party relative?’*

**Yes.** You can make a complaint on behalf of someone else, as long as they are aware of the complaint and agree. Signed consent from the person would be best.

### *‘My mother passed away in hospital and I want to complain about her care. Can I still do this?’*

**Yes.** You can make a complaint on behalf of someone who has died. However, dependent on the circumstances, the NHS can refuse the complaint if they feel you are not a suitable representative of the deceased. The NHS should provide their reasons in writing.

### *Can I complain on behalf of a relative who cannot consent due to Dementia?*

**Yes.** If the person is unable to consent due to issues with capacity, or illness you can still complain on their behalf. However, if the NHS service feel that the complaint is not in the best interests of the person, they can refuse the complaint. They should put the reasons for their decision in writing.

### *I am under 18 can I complain?*

**Yes.** Young people under 18 are entitled to complain independently. The NHS cannot consider a complaint made on behalf of a young person unless they are sure that the young person couldn't have complained themselves.



# USEFUL CONTACTS

## Patient Advice and Liaison Service (PALS)

PALS offers confidential advice, support and information on health-related matters. They provide a point of contact for patients, their families and their carers. They can liaise with Trust staff on your behalf to help resolve any informal concerns.

### PALS at York Hospital NHS Trust (for York and Scarborough Hospitals)

**Email:** [pals@york.nhs.uk](mailto:pals@york.nhs.uk)

**Phone:** 01904 726262

### PALS at Tees, Esk and Wear Valley NHS Foundation Trust

**Email:** [tewv.pals@nhs.net](mailto:tewv.pals@nhs.net)

**Phone:** 0800 052 0219

## Tees, Esk and Wear Valley NHS Foundation Trust Complaints Team

**Email:** [tewv.complaints@nhs.net](mailto:tewv.complaints@nhs.net)

**Phone:** 0800 052 0219

**Post:** Complaints Team

Tees, Esk and Wear Valley NHS Foundation Trust

Flatts Lane Centre, Flatts Lane

Normanby, Middlesbrough, TS6 0SZ

## York Hospital NHS Trust Complaints Team (for complaints about York and Scarborough Hospitals)

**Email:** [complaints@york.nhs.uk](mailto:complaints@york.nhs.uk)

**Phone:** 01904 725137

**Post:** Complaints Team

York Teaching Hospital NHS Foundation Trust

The York Hospital, Wigginton Road

York, YO31 8HE

## NHS Vale of York Clinical Commissioning Group

**Email:** [voycg.patientrelations@nhs.net](mailto:voycg.patientrelations@nhs.net)

**Phone:** 01904 555999

**Post:** NHS Vale of York CCG

West Offices, Station Rise

York, YO1 6GA

## NHS England

If you have a complaint about NHS primary care services, you can either complain directly to the organisation providing the services, or to NHS England who commissions the service. When NHS England get a copy of your complaint it will be passed to a case officer who will get in touch with you and take the lead in the investigation.

**Email:** [england.contactus@nhs.net](mailto:england.contactus@nhs.net)

**Phone:** 0300 311 22 33

**Website:** [www.england.nhs.uk](http://www.england.nhs.uk)

**Post:** PO Box 16738

Redditch, B97 9PT

### **Parliamentary and Health Service Ombudsman (PHSO)**

If you've made a complaint under the NHS complaints procedure and you aren't satisfied with how it was dealt with at the first stage, you have the right to ask for an independent review by the Parliamentary and Health Service Ombudsman (see info sheet for more information).

**Helpline:** 0345 015 4033

**Website:** [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

### **General Medical Council**

The GMC can look into serious concern about a doctor's behaviour or the way they do their job. They usually investigate cases where the doctor is putting the safety of patients, or the public's confidence in doctors, at risk. They can issue advice or a warning to a doctor, or may agree with the doctor that they will restrict their practice, retrain or work under supervision.

**Website:** [www.gmc-uk.org](http://www.gmc-uk.org)

**Phone:** General Enquiries - 0161 923 6602

### **Nursing and Midwifery Council**

The NWC can look into concerns about a nurse, midwife or nursing associate which could put the safety of patients at risk, or damage the public's confidence in the nursing or midwifery professions. They investigate whether a nurse or midwife is fit to practice if an allegation is made that they don't meet their standards for skills, education and behaviour.

**Website:** [www.nmc.org.uk](http://www.nmc.org.uk)

**Phone:** New Referrals Team - 020 7681 5248

### **General Dental Council**

The GDC can look into serious concerns about the ability, health or behaviour of a dental professional. They can investigate complaints and, where appropriate, take action through their fitness to practise process.

**Website:** [www.gdc-uk.org](http://www.gdc-uk.org)

**Phone:** Customer Team - 020 7167 6000

### **Healthwatch York**

The aim of Healthwatch is to involve patients in shaping health and social care services. They can provide information about local services, listen to your views about local services and make sure these are taken into account when services are planned and delivered. They want to know what is working well and what is not working well within Health and Social Care. You can feedback your experiences to them online or via their website.

**Email:** [healthwatch@yorkcvs.org.uk](mailto:healthwatch@yorkcvs.org.uk)

**Website:** [www.healthwatchyork.co.uk](http://www.healthwatchyork.co.uk)

**Phone:** 01904 621133

### **Action Against Medical Accidents**

**AVMA** is a specialist medico-legal advice service which is free and confidential. The service provides information and advice to people who have experienced some form of medical or clinical negligence.

**Website:** [www.avma.org.uk](http://www.avma.org.uk)

**Phone:** 0845 123 2352