

Factsheet 66

Resolving problems and making a complaint about NHS care

December 2016

About this factsheet

The factsheet explains how to make a complaint about NHS services, including situations where your complaint covers both NHS and social care services. It describes support available to help you, what to expect when your complaint is investigated and what you can do if dissatisfied with the outcome.

The information in this factsheet is applicable in England. If you are in Scotland, Wales or Northern Ireland, please contact Age Scotland, Age Cymru or Age NI for their version of this factsheet. Contact details can be found at the back of this factsheet.

Information on any organisation mentioned in this factsheet can be found in the Useful organisation section.

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1 Concerns or complaints about NHS care

Most people receive good care when using NHS services but there may be times when you are upset, frustrated, angry or unhappy about a particular incident or your on-going care.

You have a right to make a complaint about any aspect of NHS care, treatment or services. All NHS organisations must have a complaints procedure explaining who to contact, how they investigate a concern or complaint and respond to its findings, and what further action you can take if you remain dissatisfied.

Ask for a copy of the complaints procedure and if you have a disability or sensory loss or English is not your first language, ask for it in a format you can access and understand.

If you are unsure whether to complain, or want to talk it through with someone or you need help to make a complaint, ask staff for details of the local independent NHS Complaints Advocacy Service.

If your concerns involve hospital care, each hospital has a Patient Advice and Liaison Service, commonly known as PALS. PALS can be particularly helpful in resolving issues that arise while you are in hospital and if necessary, explain how to make a formal complaint.

2 Options if you are unhappy with your care

2.1 Resolving problems informally

Raise a concern with a staff member, their manager or hospital PALS team at the time or as soon as possible afterwards. This provides an opportunity for it to be put right quickly and can prevent a situation getting worse.

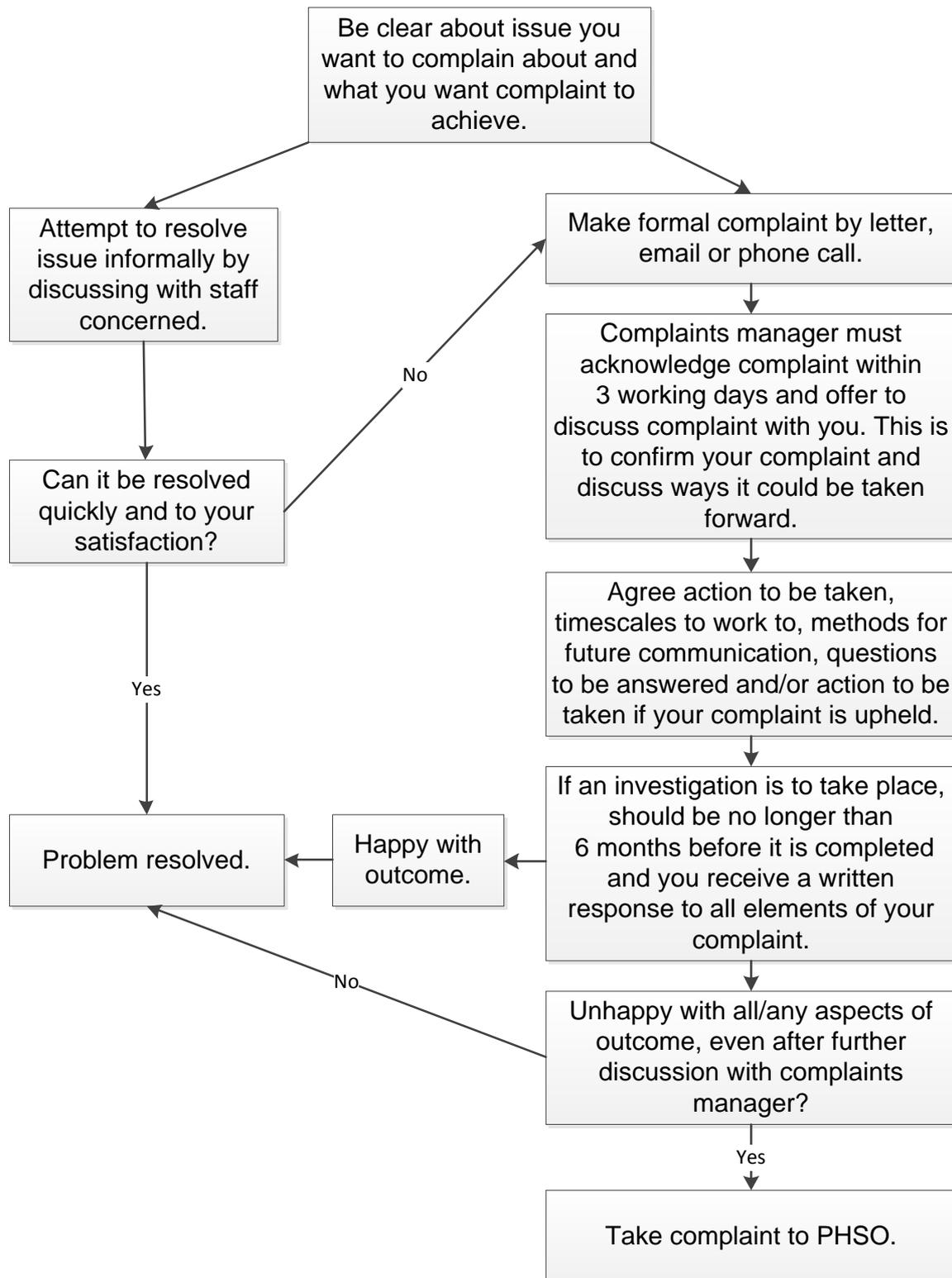
An apology from the person concerned, assurance they are taking steps to prevent something happening again, agreeing a better way to meet your own or a relative's needs or receiving information from a doctor who is proving difficult to reach can be what you want.

2.2 Making a formal complaint

You may want to raise a formal complaint because:

- your concerns were not adequately addressed by raising them informally
- the seriousness of the issue warrants a wider investigation
- the event you wish to complain about happened some time ago.

Resolving problems about NHS care



3 NHS complaints process

There is a two-stage system for raising and resolving a formal complaint.

- Stage one: try to resolve it at a local level.
- Stage two: take it to the Parliamentary and Health Service Ombudsman if you are dissatisfied with the response.

NHS and social services follow the same system, so if your complaint involves both, you can make your complaint with either service.

3.1 Who can make a complaint?

You can raise a complaint on your own behalf or:

- for a friend or relative if you have their permission, ideally in writing
- on behalf of a friend or relative who cannot give consent for you to act on their behalf because they lack mental capacity. If the NHS organisation believes a complaint is not in their best interests, it can refuse to pursue it but must explain why in writing
- if you are, or likely to be, affected by the issue being complained about
- on behalf of a deceased relative or friend.

3.2 Are there time limits to making a complaint?

You must make a complaint within 12 months of an event occurring or within 12 months of the date you were first aware of the matter you want to complain about. The time limit can be waived if you give good reasons for missing it and the complaints manager decides it is possible to complete a fair investigation.

3.3 What services and care can you complaint about?

You can raise concerns or make a complaint about NHS services provided by:

- your GP or staff working at the practice
- community health service staff such as district nurses, continence nurses
- dentists, optometrists, pharmacists
- staff working for a hospital trust, mental health trust or ambulance trust
- an independent hospital if paid for by the NHS.

Concerns and complaints could involve:

- a specific consultation
- time or route taken to reach a diagnosis
- specific treatment or general care

- attitude of staff, poor or inadequate communication about your care
- difficulty making appointments or late running appointments.

3.4 Support to help you raise concerns or make a complaint

It can be daunting or distressing to make a complaint but there is support available.

Independent NHS Complaints Advocacy Service

Each local authority must arrange for an independent NHS complaints advocacy service to support people making or thinking of making a complaint about NHS care or treatment.

Advocates listen to your concerns and can help you think through what you want to say and get out of making a complaint. They are likely to be able to help you to write letters, clarify responses you receive and help you prepare for, or go with you, to meetings.

If your complaint would benefit from access to your medical records, you have a right to apply for access under *the Data Protection Act 1998*. Discuss this with your advocate or search 'access medical records' on NHS Choices www.nhs.uk/.

Your local Healthwatch can tell you how to contact the advocacy service.

Hospital PALS

If your problem relates to hospital care, ask ward or outpatient staff how to contact the hospital PALS. Their role is to listen to patients or family members and intervene with a view to resolving issues promptly before they escalate. If a problem remains, PALS staff can explain the formal complaints procedure and put you in touch with the complaints team and NHS Complaints Advocacy Service.

Many ambulance services have their own PALS.

Local Healthwatch

Local Healthwatch provides information about health and social care services, including how to complain. In some areas it provides the independent NHS complaints advocacy service.

For details of your local Healthwatch, search 'Find Healthwatch' on the NHS Choices www.nhs.uk/.

Healthwatch England

Healthwatch England has produced a series of guides with Citizens Advice to help navigate the complaints system, along with tips and template letters. Go to www.healthwatch.co.uk/complaints/guides.

3.5 Making an effective complaint

The need to make a complaint often arises in stressful or emotional circumstances. Seeking support and considering the following tips and suggestions can help you engage confidently with the process.

Be clear what your complaint is about:

- who was affected? Their name, date of birth and address
- what happened or went wrong? Be as specific as you can and try not to make generalisations
- when and where it did it happen? Has it happened before?
- who was involved on the staff side?
- why were you unhappy?

Decide what you would like to happen as a result of your complaint. This might be an apology, explanation of why the incident happened, agreement to rectify the results of poor care, an explanation of what has been, or will be done, so it does not happen again.

Keep your tone of voice or written correspondence polite and professional. Keep correspondence short and to the point.

Send supporting documentary evidence and list it in your email or letter.

Once you have made your complaint, keep a record of names, contact details and job titles of anyone you speak to, dates of conversations, what was said, decisions made and deadlines agreed.

Keep all emails and correspondence and ask for written confirmation of verbal promises.

3.6 Who do I complain to?

Staff should treat you with courtesy and respect and direct you to the person responsible for managing complaints in their organisation.

GP practice - the practice manager is usually responsible.

Dental surgeries, local pharmacies and opticians - must have a staff member responsible for complaints.

Hospitals and ambulance services - have a department responsible for managing complaints and compliments and monitoring quality of care. It may be known as the Patient or Customer Relations department.

3.7 If you do not want to complain to the service provider

If you feel uncomfortable complaining to a staff member or organisation providing a service, you can complain to the NHS organisation that arranges and pays for that service on your behalf. The formal term used is '*commissions*' the service.

This means taking your complaint to:

NHS England - if you have a complaint about:

- services delivered by your GP or practice staff
 - NHS services provided by a dental practice, optician or pharmacy
- or to

Your Clinical Commissioning Group (CCG) - if you have a complaint about NHS services delivered by:

- GP out-of-hours service
- ambulance Trusts
- NHS hospital Trusts – acute or mental health
- private hospitals, treatment centres and hospices (only when complaining about NHS services they deliver)
- community services such as continence services, speech and language therapy, mental health services or wheelchair services
- community mental health services.

The CCG considers whether it is appropriate for them to deal with the complaint and then discusses this with you. Some CCGs offer the equivalent of a PALS.

Sharing concerns and compliments about local services with your CCG helps it when making future decisions about who should deliver services.

To find your CCG, search 'Find Clinical Commissioning Group' on NHS Choices www.nhs.uk/ or contact NHS England.

3.8 Complaints involving more than one organisation

If your complaint involves services provided by more than one organisation, they have a duty to co-operate. This means the organisation you complain to must approach the other one and then agree between them to tell you who will:

- take the lead in handling your complaint
- be your point of contact and responsible for communicating with you
- co-ordinate handling of any investigations
- ensure you receive one response addressing all issues it was agreed would be investigated.

For example, you might want to complain about your hospital discharge and social care services provided when you arrived home or about two NHS organisations, such as a GP practice and a hospital.

4 Stage 1 – local resolution

4.1 Acknowledging your complaint

Staff must work within basic rules when managing a complaint.

- You can make a complaint in person or by phone, letter or email. If by phone, the person you speak to must send you a letter or email detailing their understanding of your complaint. This allows you to check they have understood it accurately.
- Staff should acknowledge your complaint - orally or in writing - within three working days.

4.2 Investigating and responding to your complaint

The person responsible for acknowledging your complaint must offer you, at a mutually agreed time, the opportunity to discuss it and how it will be handled. This can be face to face or by phone so you can:

- explain your complaint in your own words
- confirm what answers you are seeking and what you would like to happen if your complaint is upheld
- hear what can realistically be achieved by investigating your complaint
- discuss options for taking it forward, agreeing who to involve and deciding what type of investigation is most likely to deliver a satisfactory outcome
- discuss support from the independent NHS complaints advocacy service
- develop a plan of action and agree a timescale for completing the investigation and sending a response
- agree how you would like to be kept informed of developments.

If you do not want this initial discussion, you should receive written confirmation about how they will manage your complaint, expected timescales for completing any investigation and for sending their response.

The investigation to understand what happened and why should be proportionate, thorough and completed as quickly as possible. One option may be a face-to-face meeting between you and the staff concerned, involving a mediator if necessary.

If your complaint requires investigation, you can expect it to be completed and to receive a response no more than six months from the date of your complaint. If it is going to be longer than that or than the agreed timing, you should be told why and staff should ensure you receive a response as soon as possible.

Remember to note the date and time of any phone calls or meetings, the names of the people you speak to and what was said. It might be a good idea to keep a folder containing your notes and correspondence and records you send or receive.

At the end of an investigation, you should receive a written response, by email if you prefer, that includes:

- An explanation of how they considered your complaint, conclusions reached in relation to each part of it and any action which the complaint specifies or organisation believes it should take.
- Confirmation the organisation is satisfied any action that needs to be taken has been, or will be taken.
- Details of your right to take your complaint to the Parliamentary & Health Service Ombudsman (PHSO) if still dissatisfied and how to do this.

If you are unclear or dissatisfied with any element of the response, raise it with the complaints manager, as further discussion may resolve things without involving the PHSO.

4.3 Monitoring and reporting on complaints handling

Each organisation must keep a record of:

- each complaint, what it was about and its outcome
- whether it met agreed timeframes for a response or had to amend them.

Their annual report must include:

- how many complaints they received
- how many were found to be justified
- how many were referred to the PHSO
- a summary of the subject matter of complaints
- any significant learning arising from complaints or from the way they were handled
- any action taken or to be taken to improve services as a direct result of investigating complaints.

5 Stage 2 – taking a complaint to the Ombudsman

If you are not satisfied with local handling of your complaint or its conclusion, you can ask the PHSO to look into it. The PHSO is independent of the NHS and the government and is accountable directly to Parliament. The PHSO office can investigate a local complaint if it believes there is a case to answer. You should approach the PHSO within one year of the incident taking place. Speak to their helpline if it is longer than this and ask for advice on how to proceed.

Helpline staff can explain how the PHSO office deals with complaints, give advice on making a complaint using their standard form and help to complete it. You can download the form from their website.

The website explains in written and video format how they can help and how they manage complaints. If it decides an organisation has got things wrong, they can make recommendations for it to put them right. This can include explanations, apologies and recommendations for the service to learn and improve. The website explains some things you need to know if considering legal action.

If a complaint involves NHS and a local authority services, the PHSO and Local Government Ombudsman (who investigates complaint handling by local authorities) can work together to resolve it.

6 Complaints about NHS use of *Mental Health Act*

If you are unhappy about how NHS staff have used the *Mental Health Act 1983 (MHA)* you should raise this with the service that provided your care. They must have a complaints procedure. If you would like support to make your complaint, you can seek information about mental health law and services from a charity such as Mind. You can ask to talk to an Independent Mental Health Advocate. They are specialist advocates trained to work within the *MHA* framework.

If unhappy with the outcome of their investigation, you can ask the Care Quality Commission (CQC) to investigate. The CQC looks into complaints relating to detention in hospital, care while subject to a community treatment order or when the subject of a guardianship.

You can contact them if you believe NHS staff:

- did not follow the right procedures
- did not give you the right information
- restrained or kept you away from other patients when they should not have
- did not adequately plan for your discharge.

The CQC looks to see whether the local service handled your complaint fairly.

If your complaint is about treatment options, medication you are being asked to take or if you believe you should be discharged, you must follow the NHS complaints procedure described earlier.

7 Care Quality Commission

The CQC is the independent regulator of health and adult social care in England. It only investigates individual complaints if they relate to the *MHA* but wants individuals to share both good and bad experiences of NHS and social care with them. You can do this by letter, phone or use the 'share your experience' form on their website.

Their inspectors review every piece of feedback they receive and decide if it warrants follow up or action on their part. Patient feedback is added to information already held about each service provider and helps an inspection team make judgements about whether services are meeting standards of quality and safety. It can influence decisions around registration and inspection of services.

7.1 CQC Inspections

The CQC inspects and reports on all NHS organisations, independent healthcare providers and social care providers. Their inspection regimes are tailor-made for each type of provider and look at the content of and trends in complaints and how service providers handle, respond to and learn from complaints. Inspectors use the PHSO document '*My expectations for raising concerns and complaints*' as a measurement tool for inspections.

8 Safeguarding concerns

Safeguarding means protecting peoples' health, wellbeing and human rights, and enabling them to live free from harm, abuse and neglect. Some adults are at increased risk of neglect or abuse because of their dependence on others for example people living with dementia, with a sensory impairment, learning difficulty or frailty. Harm and abuse can happen anywhere including hospitals where it might involve ignoring medical or physical care needs such as permitting development of pressure ulcers, misuse of medicines or failure to ensure adequate nutrition and liquids. If you have concerns discuss them and get advice by contacting Action on Elder Abuse.

If you have concerns about someone else, it is always best to discuss your worries with them. It is important to have their agreement, where possible, before you report abuse. If the person does not have the mental capacity to agree to this, think carefully about whether it is in their best interests to raise a safeguarding alert on their behalf.

Hospitals have a safeguarding policy and steps they must follow if concerns are brought to their attention, so speak with a senior staff member on the ward. For information see factsheet 78, *Safeguarding older people from abuse and neglect*.

9 Negligence by an NHS organisation or healthcare professional

If you or a family member believes you have been harmed by an NHS organisation or healthcare professional as a result of negligence, you are entitled to an explanation and may be able to get compensation for your injuries.

This is a complex area and you should speak to Action against Medical Accidents - a charity committed to patient safety and justice. They can help you decide if your experience falls into the category of a medical accident and if it would, discuss your options.

10 Complaints about individual health professionals

If you believe a doctor or other health professional is guilty of professional misconduct that could call into question their fitness to practice, you can make a complaint to their professional regulatory body. Each has procedures for investigating fitness to practice concerns.

Examples that could give cause for concern might include seriously or persistently failing to work competently and safely, having inappropriate relations with a patient, or breaching confidentiality.

The professional bodies for the main health professions are:

Doctors: General Medical Council

Nurses and midwives: Nursing and Midwifery Council

Dentists: General Dental Council

Opticians: General Optical Council

Pharmacists: General Pharmaceutical Council

Chiropodists/podiatrists, dietitians, occupational therapists, paramedics, physiotherapists, radiographers and speech and language therapists: Health and Care Professions Council

11 Complaints about private healthcare providers

If you are unhappy with healthcare you have paid for yourself, contact the provider of the service and give it the opportunity to investigate your concerns and respond to you.

If you are not happy with their response, contact the Independent Healthcare Sector Adjudication Services. They represent many independent healthcare organisations and have a code of practice for their members on dealing with complaints and a guide for patients. They only look into complaints involving one of their members.

12 Your right to make a complaint about NHS care

Your right to make a complaint is firmly written into the NHS Constitution. You can find this at www.gov.uk/government/publications/the-nhs-constitution-for-england

The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 make provision for complaints handling. You can find them at www.legislation.gov.uk/uksi/2009/309/contents/made

Useful organisations

Action on Elder Abuse

<http://elderabuse.org.uk>

Telephone 0808 808 8141

A specialist charity focusing exclusively on the issue of elder abuse.

Action against Medical Accidents

www.avma.org.uk

Telephone helpline 0845 123 23 52

AvMA is a charity for patient safety and justice. It produces leaflets and offers a free and confidential helpline to support people affected by medical accidents.

Care Quality Commission

www.cqc.org.uk

Telephone 03000 61 61 61 (free call)

Independent regulator of adult health and social care services in England, covering NHS, local authorities, private companies or voluntary organisations and people detained under the *Mental Health Act*.

Clinical Commissioning Groups (CCGs)

www.nhs.uk/Service-Search/Clinical-Commissioning-Group/LocationSearch/1

CCGs are responsible for commissioning hospital services, GP out-of-hours, ambulance services and community services such as continence services, mental health services.

General Dental Council

www.gdc-uk.org

Telephone customer advice and information team 020 7167 6000

The General Dental Council (GDC) is responsible for registering all dentists and dental care professionals who practise in the UK. You can access a register its website. If you cannot access the internet, call their Customer Advice & Information Team.

General Medical Council

www.gmc-uk.org/index.asp

Telephone 0161 923 6602

The General Medical Council is the organisation to contact if a member of the public has a concern about a doctor's 'fitness to practice'.

General Optical Council

www.optical.org/

Telephone 020 7580 3898

The General Optical Council is the regulator for opticians, optometrists, dispensing opticians and optical businesses practicing in the UK. It is responsible for investigating 'fitness to practice' complaints.

General Pharmaceutical Council

www.pharmacyregulation.org/

Telephone 0203 713 8000

Contact this organisation if you have concerns about a pharmacy's or pharmacist's 'fitness to practice'.

Health and Care Professionals Council (HCPC)

www.hcpc-uk.org.uk/

Telephone 0800 328 4218 fitness to practice department

The HCPC keeps a register of health and care professionals who meet their standards for training, professional skills, behaviour and health and investigates 'fitness to practice' complaints.

Health and Social Care Publications order line

www.orderline.dh.gov.uk/ecom_dh/public/home.jsf

Telephone 0300 123 1002

Materials are available in large print and other formats and in several languages. Delivery is within 10 working days.

Independent Healthcare Sector Adjudication Service

www.iscas.org.uk

Telephone 020 7536 6091

The Independent Healthcare Sector Complaints Adjudication Service (ISCAS) is a voluntary scheme for the vast majority of independent healthcare providers and provides independent adjudication on complaints about ISCAS members.

Local Healthwatch and Healthwatch England

www.healthwatch.co.uk

Telephone 03000 683 000

Every local authority has a local Healthwatch that either provides free advocacy for those wanting to make a complaint about NHS services or can signpost you to your independent NHS Complaints Advocacy Service. Search the Healthwatch England website or call for details of your local Healthwatch.

Mind

www.mind.org.uk

Infoline 0300 123 3393

Mind provides information and support to empower anyone experiencing a mental health problem.

NHS Choices

www.nhs.uk

NHS Choices is a comprehensive web information service. Visit this website to find your nearest dentist. It can also help you find and use other NHS services, make choices about your health and learn more about the prevention and treatment of many health conditions.

NHS England

Telephone 0300 311 22 33

NHS England can investigate complaints about primary care services such as GPs, dentists, opticians or pharmacy services if you do not wish to complain to the service itself.

Nursing and Midwifery Council

www.nmc.org.uk/

Telephone 020 7637 7181

The Nursing and Midwifery Council regulates nurses and midwives in England, Wales, Scotland and Northern Ireland.

Office of the Public Guardian

www.gov.uk/government/organisations/office-of-the-public-guardian

Telephone 0300 456 0300

The Office of the Public Guardian supports and promotes decision-making for those who lack capacity or would like to plan for their future within the framework of the *Mental Capacity Act 2005*.

Parliamentary and Health Service Ombudsman

www.ombudsman.org.uk

Telephone helpline 0345 015 4033

The Parliamentary and Health Service Ombudsman investigates complaints about NHS care in England. You must usually raise your complaint with the provider of the service before the Ombudsman will agree to be involved.

Age UK

Age UK provides advice and information for people in later life through our Age UK Advice line, publications and online. Call Age UK Advice to find out whether there is a local Age UK near you, and to order free copies of our information guides and factsheets.

Age UK Advice

www.ageuk.org.uk

0800 169 65 65

Lines are open seven days a week from 8.00am to 7.00pm

In Wales contact

Age Cymru

www.agecymru.org.uk

0800 022 3444

In Northern Ireland, contact

Age NI

www.ageni.org

0808 808 7575

In Scotland, contact Age Scotland by calling

Silver Line Scotland

www.agescotland.org.uk

0800 470 8090

(This is a partnership between The Silver Line and Age Scotland)

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